



**Preliminary and Site Plans, Martens Property, 120110090 & 820110130**

Staff Report Date: 11-17-11



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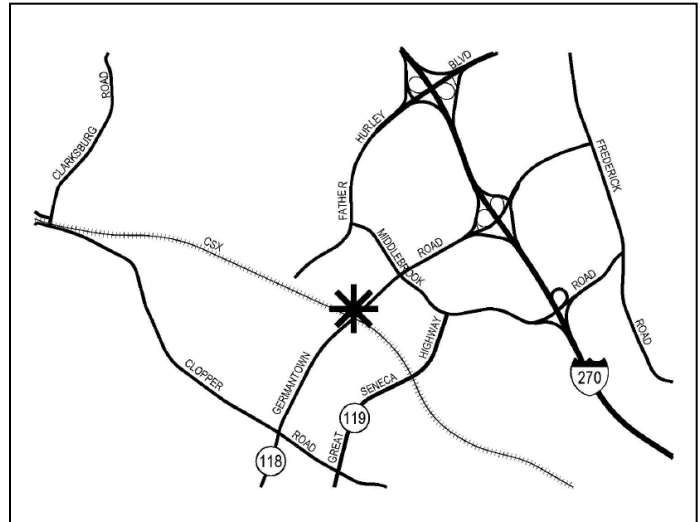
**description**

**A. Preliminary Plan 120110090 Martens Property:**  
455 dwelling units (including 12.5% MPDUs) and 14,426 SF of commercial, near the intersection of Wisteria Drive and Waters Road, 26.48 acres, RMX-2 Zone, Germantown Employment Sector Plan.

*Staff recommendation: Approval with conditions*

**B. Site Plan 820110130 Martens Property**  
455 dwelling units (including 12.5% MPDUs) and 14,426 SF of commercial, near the intersection of Wisteria Drive and Waters Road, 26.48 acres, RMX-2 Zone, Germantown Employment Sector Plan.

*Staff recommendation: Approval with conditions*



**summary**

Staff recommends **approval of the Preliminary Plan and Site Plan with conditions**. Staff's analysis addresses the following issues:

- Proposal for four multi-family buildings with a combined total of 289 dwelling units, and 166 townhouses. The retail uses are primarily consolidated in the ground floor of Building 1.
- The project will not be restricted by the pending Northwest Cluster moratorium (p.17).
- The Forest Conservation Plan including tree waivers was approved as part of the Project Plan No. 92002002B on June 23, 2011.
- Staff finds that the 50% setback reduction will not adversely affect the adjacent multi-family residential properties located to the northwest of the Property (p.21).
- The applicant will enter into a reciprocal access easement with the owner of the adjacent property to the north upon their redevelopment when the Planning Board deems it necessary to have reciprocal access through both properties.
- The applicant provided various options for the design of the alignment of the Waters Road connection to MD 118 in order to address the project plan condition of approval.
- Neighbors shared concerns related to the proposed alignment for the Waters Road connection to MD 118 (p.9).

## TABLE OF CONTENTS

<b>SECTION 1: CONTEXT &amp; PROPOSAL</b>	<b>3</b>
Site Description	3
Vicinity	3
Site Analysis	4
Project Description	5
Background	5
Previous approvals	5
Proposal	6
Community Outreach	9
<b>SECTION 2: PRELIMINARY PLAN REVIEW</b>	<b>11</b>
Analysis and Findings	11
Recommendation and Conditions	19
<b>SECTION 3: SITE PLAN REVIEW</b>	<b>21</b>
Findings	21
Recommendation and Conditions	35
<b>APPENDICES</b>	<b>39</b>

## ILLUSTRATIONS & TABLES

<i>Vicinity Map</i>	3
<i>Aerial Photograph</i>	4
<i>Illustrative Site Plan</i>	6
<i>Preliminary Plan</i>	11
<i>Site Plan Data Table</i>	23
<i>Recreation Calculations Tables</i>	30

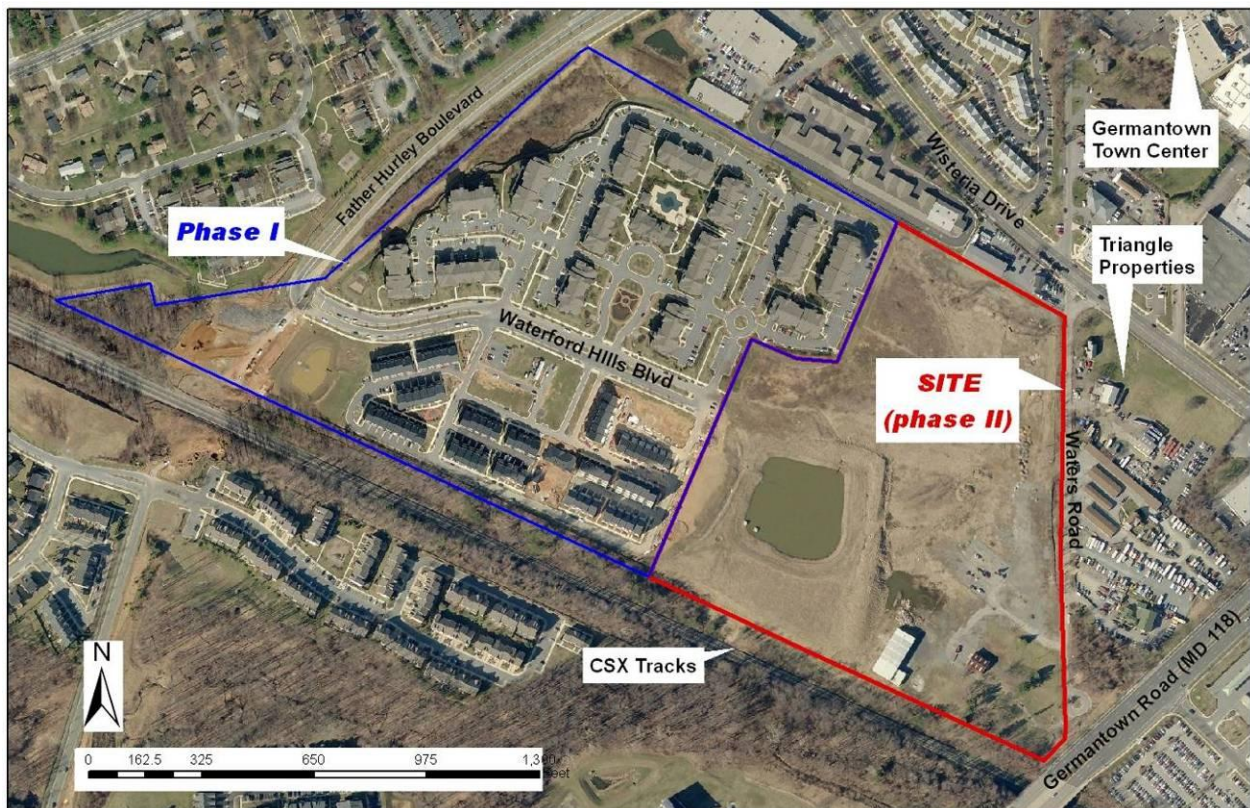


are improved with industrial/commercial uses. Across the CSX tracks to the south, properties are zoned PD-15 and I-3 and are developed with one-family attached houses and industrial uses, respectively. Along MD 118, there are a series of underdeveloped, industrial/commercial properties. The northern boundary adjoins properties zoned RMX-2 and T-S with existing commercial uses that face Wisteria Drive.

In addition to its proximity to major thoroughfares, existing and planned transit opportunities, and the emerging town center, the site is located within 2.3 miles of the new South Germantown Recreational Park, Seneca Creek State Park, Little Seneca Lake and Blackhill Regional Park, and within five miles of Little Bennett Regional Park and Ovid Hazen Wells Park.

### Site Analysis

The site consists of approximately 26.48 acres located west of Waters Road and is currently unimproved. The site is heavily disturbed with rubble, vehicle storage and commercial/industrial staging areas. An existing stormwater management pond is located within this disturbed area near the railroad tracks. An existing 36-inch sanitary force main is located under Waters Road and a WSSC easement is located along the northern property boundary.



*Aerial Photo Looking North*

The property contains no forest; however, there are six trees 30 inches and greater diameter at breast height (DBH) and four trees between 24" and 30" DBH on the property. The site's topography includes moderate slopes (> 15%) and steep slopes (> 25%). There is a stream running through the adjacent properties to the southwest of the subject property. The property contains 0.34 acres of environmental buffers as a result of the adjacent stream. The property does not contain any wetlands. The property is within the Little Seneca Creek watershed; a Use III-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as fair.

## PROJECT DESCRIPTION

### Background

The original Project Plan for Fairfield at Germantown approved a mixed use development with 610 garden apartments including 92 MPDUs (or 15%) and 250,000 square feet of office and retail on 62.4 acres. The development was divided into two phases, with the residential portion occurring in Phase I and the commercial portion in Phase II. Construction is complete on the residential portion affiliated with Site Plan No. 820030030, and subsequent amendments (82003003A, 82003003B, and 82003003C). Site Plan 820030030 limited the residential density to 604 dwelling units including 91 MPDUs (or 15%).

Phase II was the subject of Project Plan Amendment No. 92002002A, which was never brought before the Planning Board. The recently approved Project Plan Amendment No. 92002002B, amended Phase II by replacing the approved commercial uses with predominantly residential uses.

The Preliminary Plan for Fairfield at Germantown, approved concurrently with the original Project Plan, expired August 16, 2005. The applicant requested an extension of the expired Preliminary Plan and the Preliminary Plan validity period, which was denied by the Planning Board on April 6, 2006. The approved Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) and Forest Conservation Plan (FCP) for the 62.4-acre site approved with the Preliminary Plan for Fairfield at Germantown expired for those portions of the site that had not been platted yet when the Preliminary Plan expired. The original Project Plan has not expired because it was validated by the approved Site Plans for Phase I.

### Previous Approvals

On June 13, 2002, the Planning Board approved with conditions **Project Plan No. 920020020** for Fairfield at Germantown (Planning Board Resolution dated June 19, 2002) for 610 garden apartments (including 92 MPDUs) and 250,000 square feet of office and retail on 62.4 acres.

On June 13, 2002, the Planning Board approved with conditions **Preliminary Plan No. 120020680** for Fairfield at Germantown (Planning Board Resolution dated July 16, 2002) for a maximum of 610 multi-family dwelling units and 250,000 square feet of office and retail uses on 62.4 acres.

On January 16, 2003, the Planning Board approved with conditions **Site Plan No. 820030030** (Planning Board Resolution dated January 28, 2003) for 604 housing units, including 91 MPDUs on 62.4 gross acres.

On March 17, 2005, the Planning Board approved with conditions Site Plan Amendment No. **82003003A** (Planning Board Resolution dated December 16, 2005) to change the unit type of the 200 residential units south of Waterford Hills Boulevard from multi-family rental apartments to multi-family condominium units. The amendment maintained the approved number of residential dwellings units including MPDUs, the approved lot pattern and recreational amenities.

On March 13, 2008, the Planning Board approved with conditions Site Plan Amendment No. **82003003B** (Planning Board Resolution No. 08-63) for revisions to playground equipment, mailboxes, lighting, landscape, sidewalks; addition of recycling container locations; adjustment of Building 12 location; and updates to the Forest Conservation Plan.

Project Plan Amendment No. **92002002A** was originally filed in 2006 to amend Phase II of Fairfield at Germantown by proposing 205,922 square feet of commercial retail development on 26.40 gross acres

(Costco). This application was withdrawn in April 2007 because an extension of the Preliminary Plan's validity period was not granted.

On June 23, 2011, the Planning Board approved with conditions Project Plan Amendment No. **92002002B** (Planning Board Resolution No. 11-53) for 455 dwelling units (including 12.5% MPDUs) and 14,486 SF of commercial uses on 26.48 gross acres and a Final Forest Conservation Plan. [Appendix A]

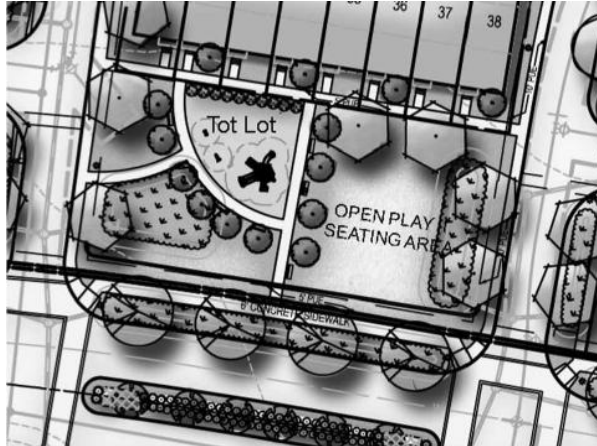
On June 23, 2011, the Planning Board approved with conditions Site Plan Amendment No. **82003003C** (Planning Board Resolution No. 11-47) to clarify condition of approval no. 2 by specifying 604 housing units on 36.1 acres rather than 62.4 acres.

### Proposal

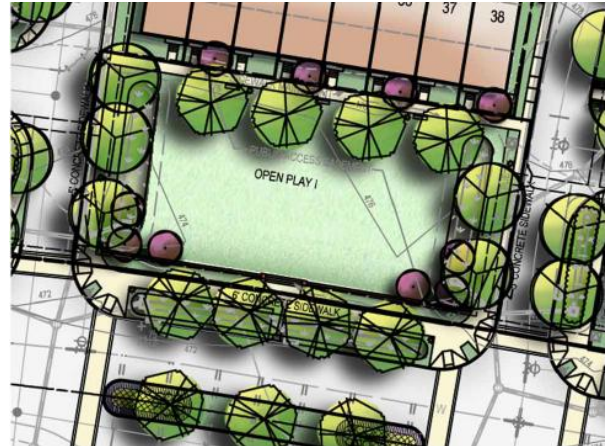


*Illustrative Site Plan rendering*

The project proposes a mixed-use development with 455 residential dwelling units (including 12.5% MPDUs) and 14,426 square feet of commercial, yielding a 0.74 FAR on 26.48 gross acres using the RMX-2 optional method of development. The project includes four multi-family buildings with a combined total of 289 dwelling units, and 166 one-family attached units. The commercial uses are primarily consolidated in the ground floor of Building 1.

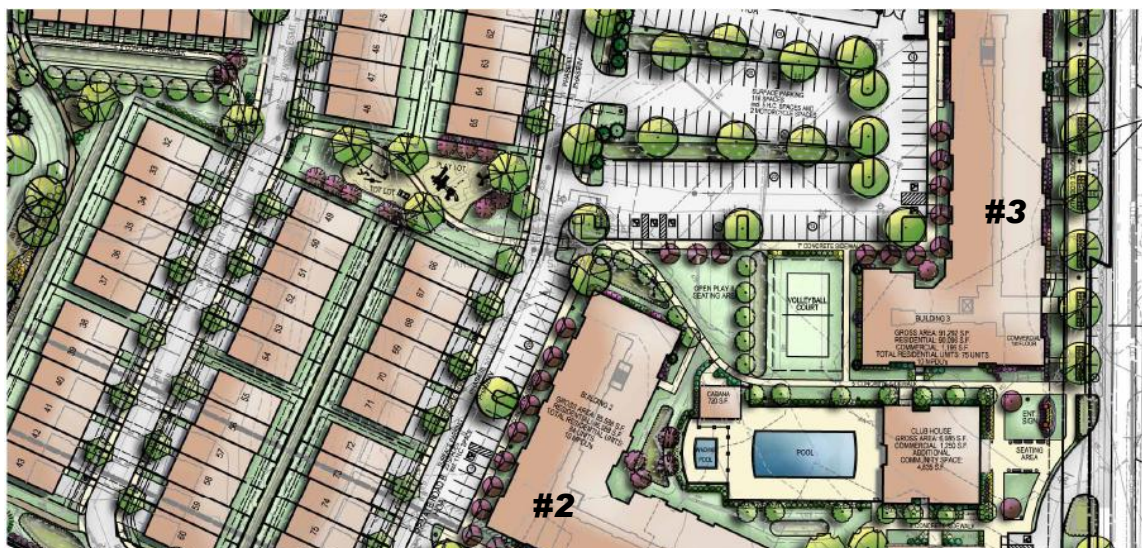


*Green Commons layout as shown on the Project Plan*

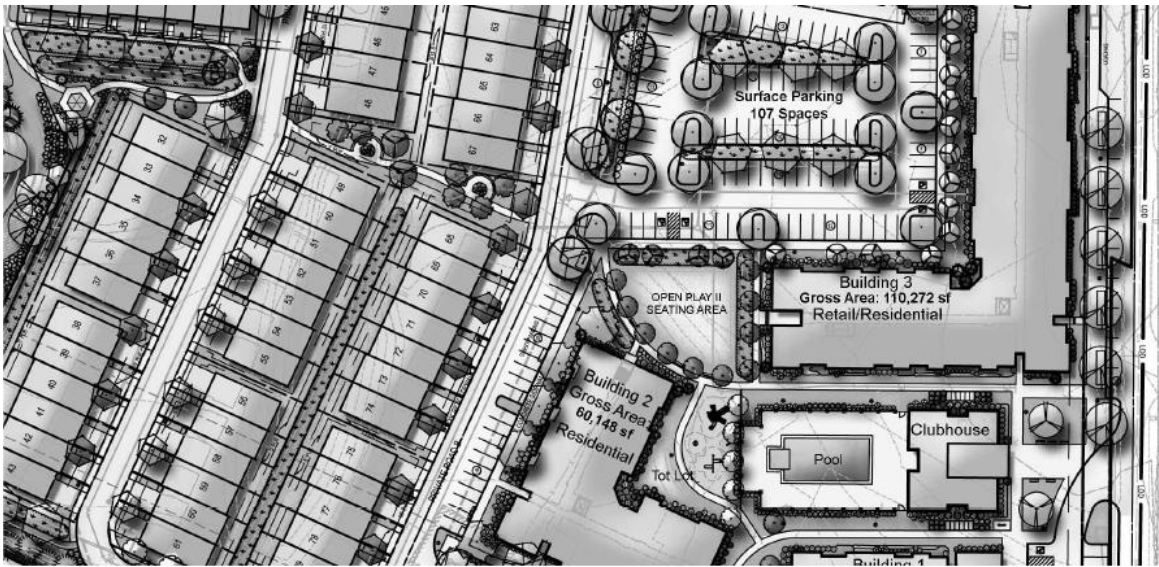


*Green Commons layout as proposed*

The site layout shown on the Preliminary and Site Plan drawings substantially follows the layout which was shown on the Project Plan approved by the Planning Board on June 23, 2011. The applicant addressed the Planning Board’s comments to provide more usable open space and amenities for the future residents by revising the unit mix to eliminate 3 townhouses and add 3 multi-family units and by adjusting the footprint of some multi-family buildings. As a result, the plan now proposes an additional play lot north of Building 4, the Green Commons consists of approximately 0.3 acres of open lawn, a picnic pavilion and tot lot function as a gateway to the SWM dry pond amenity area, five outdoor fitness stations provide active recreation surrounding the SWM dry pond, the east-west open space corridor between the dry pond and the multi-family buildings was enlarged and now accommodates a tot lot and a play lot, and a volleyball court was added to the multi-family buildings amenity area. The plan provides a combined total of 50 percent of the gross tract area (13.2 acres) as green space. The development meets all the recreation requirements on-site.



*Proposed east-west open space corridor showing tot lot, play lot, and Clubhouse amenity area*



*East-west open space corridor as shown on the Project Plan 92002002B*

The applicant intends to file subsequent Project, Preliminary and Site Plan amendments to add 5 multi-family units in order to fully make up for the loss of the three townhouses. This could not be accomplished prior to this approval due to strict timeframes for Project Plan noticing.

The applicant also worked closely with Staff to activate Waters Road and to ensure the viability of the proposed commercial space. The commercial space, which was previously shown in Buildings 1 and 3 as half depth fronting Waters Road, is now proposed to be consolidated in Building 1 taking the full depth of the building. The activation of Waters Road is accomplished by:

- Locating the multi-family buildings (1, 3, and 4) with minimal setbacks from the Road
- Providing retail uses with direct access to Waters Road on the ground floor of Building 1
- Providing direct access to the ground floor residential units that front on Waters Road in Buildings 3 and 4
- Orienting the commercial business center and leasing office uses in the Multifamily Clubhouse building to front on Waters Road
- Providing a lease Meeting/Function Room in the corner of Building 3



*Conceptual elevation of Building 3 with ground floor residential units with direct access to Waters Road and a meeting/function room at the corner*

Access to the site is provided via an entrance on Waters Road on the eastern property boundary and an extension of Waterford Hills Boulevard as a central corridor through the site connecting to Father Hurley Boulevard to the west. The project is oriented along a principal east-west axis – Waterford Hills Boulevard – providing a connection between Father Hurley Boulevard and Waters Road. Several



north/south internal connections complete the grid network of streets around which the residential units are proposed.

Pedestrians will access the site via sidewalks on all public and private streets. In addition, pedestrians will be able to access the site from MD 118 (and the MARC Station beyond) via an 8-foot wide pathway connecting the cul-de-sac on existing Waters Road to the sidewalk along MD 118.

The project meets the parking requirement on site for the residential attached and multi-family units, and the commercial uses via a combination of surface parking areas, a 2-level parking structure, and on-site garages and driveway spaces. Surplus parking spaces located on-site and along the rights-of-way of Waterford Hills Boulevard and Waters Road accommodate visitors and guests.

## **COMMUNITY OUTREACH**

The applicant has met all proper signage, noticing, and submission meeting requirements. Staff has received correspondence on both applications from two confronting property owners, Morton Taubman (Parcels 915 and 971) and Mark Wildman (Parcel 920) [Appendix E]. The concerns were primarily centered on the proposed off-site alignment for the Waters Road connection to MD 118 (the “connector road”), which was submitted as part of the subject applications to fulfill a condition of Project Plan approval.

The connection of Waters Road to MD 118 is recommended in the Sector Plan on private property outside the limits of this project (primarily on the confronting Parcels 920 and 971). The Sector Plan is silent on the implementation or phasing of this connector road.

*Even though for traffic and circulation purposes the applicant is not required to build the connector road, the Project Plan approval (92002002B) required the applicant to “design the final alignment and identify future dedications for the construction of the Waters Road connection to MD 118 prior to approval of the applicant’s Preliminary Plan” (condition #8). The applicant prepared a plan drawing [Appendix C] that identified the properties that would need to be acquired to accommodate the full, 70-foot wide right-of-way for Waters Road and how the pavement cross section would work within that right-of-way. The plan drawing identified a suitable “final” alignment of a Waters Road connection to MD 118 that satisfied the Master Plan’s recommendations. An interim option for the connector road was also prepared to show how the road could be designed if acquisition of the entire 70-foot wide right-of-way were not available; referred to as an interim design. The interim design alternative intended to address neighbors’ concerns and potentially different timing for the redevelopment of the affected properties, as well as agency concerns and Sector Plan recommendations. Both the final and interim designs have received support from staff, MCDOT, and SHA [Appendix B].*

The interim connection was presented as a T-intersection with a 60-foot right-of-way entirely dedicated on Parcel 971 (Taubman’s) and a retaining wall on the north side avoiding any encroachment on Parcel 920 (Wildman’s). This alignment would allow the connector road to be implemented with the redevelopment of Parcel 971 in conjunction with the abandonment of the current Waters Road right-of-way to the south of the connector road.

The final connection was presented as a 70-foot right-of-way with a curved alignment, which reinforces Waters Road as the through movement to MD 118 as reflected on the Master Plan illustrations. This

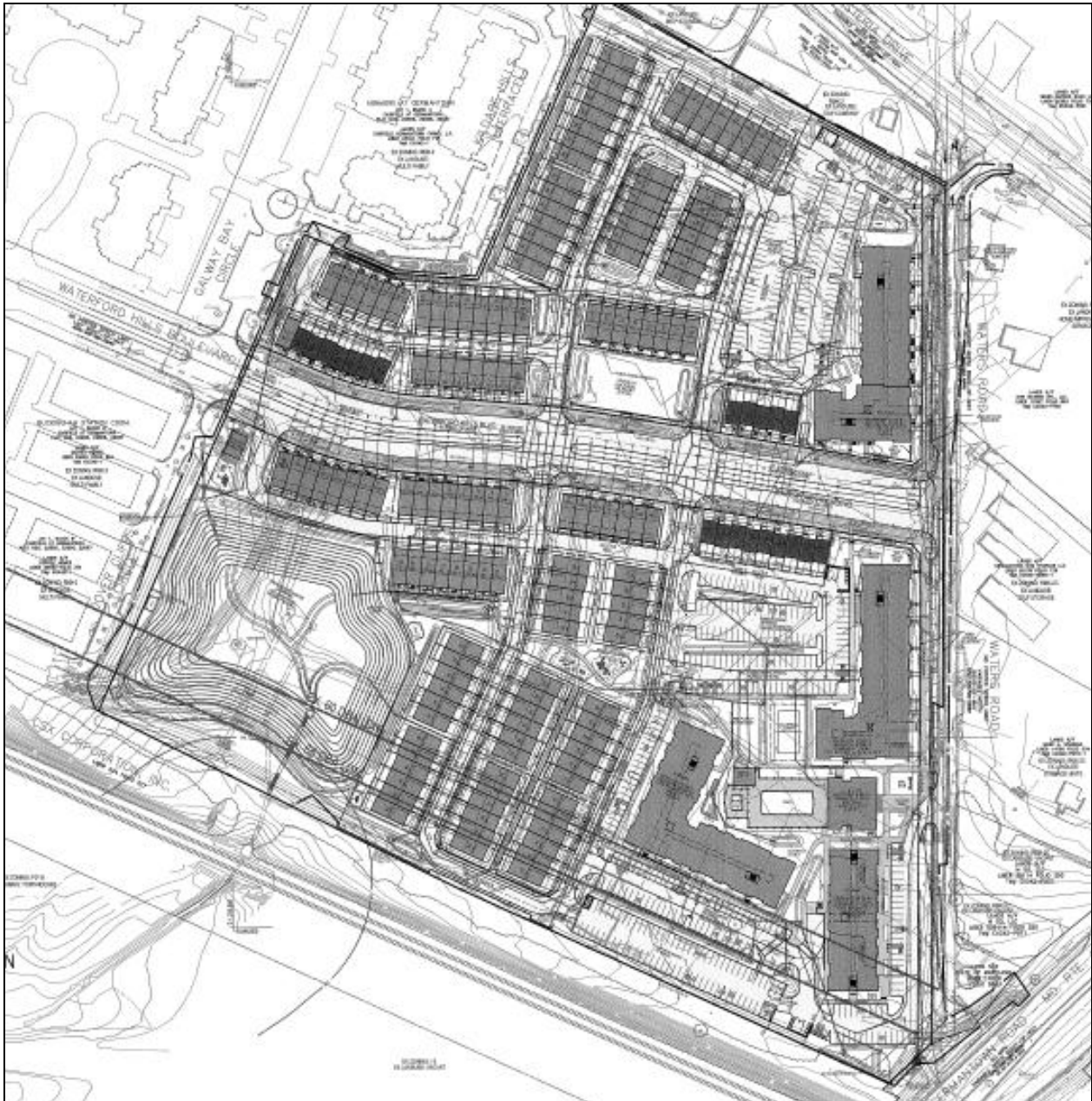
alignment splits the dedication almost evenly between the two neighbors, 0.22 acres on Parcel 920 and 0.25 acres on Parcel 971. However, because it requires the two neighbors to dedicate, it may take longer to implement.

The confronting neighbors did not support the interim approach and preferred instead to design their own one-phase approach. Initially, they advocated for a T-intersection as the final alignment rather than the curved alignment. After several meetings and discussions with staff, MCDOT and SHA, they agreed that only a curved alignment could be supported as the final connection alignment, however, they proposed a different centerline for Waters Road than that shown on the applicant's drawings, and it required fairly substantial changes to the applicant's plans at a late date in the process. The applicant expressed no support for the neighbor's alternative.

Staff met with the neighbors on October 6<sup>th</sup>, 2011, October 27<sup>th</sup> 2011, and November 16<sup>th</sup>, 2011, and provided as much guidance as possible on their proposed concepts as well as the development review process. Staff recommended that Mr. Taubman (individually or jointly with Mr. Wildman) submit a Pre-Preliminary Plan application to enable a comprehensive review of certain key aspects related to his site (i.e. road alignment, right-of-way dedication, site access, cul-de-sac abandonment, etc) by the various agencies and obtain direction from the Planning Board, which the applicant may choose to be binding upon the Board. Mr. Taubman expressed interest in starting this process as soon as possible.

The review process for the Site Plan and Preliminary Plan provided ample opportunities for concerned neighbors to express their thoughts and to provide alternative road alignments. At this time, a connection of Waters Road to MD 118 that meets the approval of all property owners, including the applicant has not been devised. Yet, the applicant has satisfied the Project Plan condition that requires the engineering of a "final" Master Plan road connection. The term "final" in no way means that further refinement of this alignment cannot occur in the future in the context of the redevelopment of the affected properties.

## SECTION 2: PRELIMINARY PLAN REVIEW



*Preliminary Plan*

### **ANAYSIS AND FINDINGS**

#### **Master Plan Conformance**

The Preliminary Plan for the Martens Property is consistent with and in substantial conformance to the recommendations in the 2009 Approved and Adopted Germantown Employment Area Sector Plan (SP).

The primary Sector Plan guidance for the Martens Application, the 26.48 acre unbuilt portion of the property, is established in the Sector Plan’s Land Use and Town Center/ West End Land Use plan exhibits (SP p.44-45). The designated land use for the property is Residential, mixed use (primarily residential).

- The plans **conform to the land use and density provisions of the** 2009 Approved and Adopted Germantown **Sector Plan**, and the June 23, 2011 Planning Board review and approval of the Project Plan 92002002B for this site.
- The submitted plans are in conformance to the June 23, 2011 **Project Plan approval**.
  - In response to staff and Planning Board reviews, minor modifications have been made to the approved Project Plan unit mix and development areas to provide more useable internal open space in the plan.

Uses	Approved Project Plan	Proposed Preliminary and Site Plans
One-family attached	169	166
Multi-family	286	289
Total Residential	455	455 (834,019 gross sq. ft)
Total Commercial	14,486 sf	14,426 sf

- These modifications are in conformance with the “Residential, mixed-use (primarily residential)” land use designations of the Sector Plan, SP pgs. 44-46.
- As demonstrated in the analysis for the approved Project Plan, the mixed use residential and commercial project conforms to the land use and maximum 0.8 FAR density, and optional increase in residential density, as specified in the land use text in the Sector Plan, pg. 53.
- The Plan must **provide** for future area wide **vehicular, pedestrian, and bikeway access consistent with the Sector Plan provisions** and Project Plan approval **and acceptable to State Highway and County Department of Transportation requirements**.
  - The submitted plans provide for the extension of Waterford Hills Blvd to Waters Road consistent with alignments in the Sector Plan pg. 45.
  - The Sector Plan, pg. 88, includes recommendations for ROW’s of 112 ft and 80 ft for the applicable project segments of Waterford Hills Blvd and Waters Road respectively.
  - The plan has included extensive coordination and a consensus among the applicant, the M-NCPPC staff, MCDOT, and the SHA with respect for the ROW’s and roadway cross sections. The applicant submitted a technical analysis and justification for ROW reductions with the resulting ROW’s of 110 ft and 70 ft for the plan segments of Waterford Hills Blvd and Waters Road, respectively. Staff has determined that these ROW’s and the roadway cross sections are appropriate.
  - The 70-foot wide main street, business roadway width ROW for Waters Road is particularly important relative to future access for the adjacent Waters Road triangle properties, a reduced impact to these properties, and the future need to extend access southwest to and beyond MD 118.
- The proposed plan will **accommodate a future roadway connection from Waters Road to MD 118** consistent with Sector Plan provisions, SP pg. 50, and acceptable to SHA and MCDOT requirements.
  - The access alignments as proposed will allow future easterly vehicular and pedestrian access from Waterford Hills Blvd across Waters Road to the adjacent Waters Road Triangle properties in conformance with alignments in the Germantown Sector Plan (SP) pg. 45.

- The plan as proposed accommodates a future access connection from a location south of the intersection of the Waterford Hills Road extension and Waters Road to the east to, and across, MD 118.
- The plan must allow for the future **local and area wide vehicular, pedestrian and bikeway access so that vehicles and pedestrians are not required to be overly dependent upon MD 118.**
  - The plan will allow future access to the east to both the Waters Road triangle properties and to MD 118 and across MD 118 to the MARC station. Future vehicular and pedestrian access with both north-south and east-west connections separate from MD 118 can be provided.
- The plan must accommodate the Sector Plan provision for a Local Signed **Shared (Class III) Roadway bikepath** at the extension of Waterford Hills Blvd, and the future extension connection from Waters Road to the east (SP pg. 32).
  - The implementation of this roadway bikepath cannot be realized until the road is built to full width standards. This will be achieved when confronting properties develop.
- In response to specific input from the staff and Planning Board at Project Plan review, the applicant must **demonstrate that internal green areas are adequate** and that provisions and access for **internal open space and play areas for children are adequate.**
  - This analysis is to be performed at Site Plan. The Site Plan has been revised to provide additional internal green space and internal open, play areas.
- **The Sector Plan includes quality of place objectives for mixed use neighborhoods to “enhance existing communities and shape new ones”, SP pg. 10, and states “Adding residential and commercial uses with an emphasis on cultural, entertainment, and street level retail uses will create synergy among diverse uses” (SP pg. 46).**
  - The plan as proposed will contribute to these objectives with attractive streetscapes designed with residential units fronting the streets, and along Waters Road a series of buildings, with a mix of uses, including residential units with entries fronting the street and street activating retail uses at the first floor of the southernmost building.



*Conceptual elevation of Building 1 with street level retail along Waters Road*

- **The project**, including the eastern and southeastern portions, **must fit the general: Urban Form and Design Guidelines provisions of the Sector Plan**; the ultimate alignment and requirements of Waters Road; the future roadway extension to and across MD 118; and the future development of the adjacent RMX-2C zoned Waters Road triangle properties.
  - The plan as proposed will meet the land use and urban form provisions of the Sector Plan, SP pgs. 44-46, 49, 50 and 53.
  - The plan is consistent with roadway and building lines for the extension of Waterford Hills Blvd and the alignment of Waters Road as shown in the **Urban Form** diagram, SP pg. 50
  - The plan as proposed will comply with the general provisions of the [Germantown Urban Design Guidelines](#) (DG)
- The Sector Plan, pg. 35, and the Design Guidelines, pg. 15, show provisions for a typical 2 lane undivided main street (and for the extension of Century Blvd) with: a 70 ft ROW; 2 undivided lanes; sidewalk widths of 7 ft min; and a min. 20 to 25 ft setback from curb lines to building faces. The plan as proposed for Waters Road includes a 70 ft ROW with a typical 28 ft setback to buildings.
- For a 2 lane divided, main street roadway, the Sector Plan, pg. 34, and the Design Guidelines (DG), pg. 14, show provisions with: a 112 ft ROW; 2 lanes with parking on both sides of the median; sidewalk widths of 7 ft min; and a min. 20 to 25 ft setback from curb lines to building faces. The plan as proposed for Waterford Hills Blvd includes a 110 ft ROW with a min. 28 ft (typical) setback to buildings.
- The “Buildings” diagram, pg. 31 of the Design Guidelines, includes:
  - building setbacks of 20 to 25 ft along most streets, and 15 to 20 ft along streets with ROWs of 100 ft or less
  - building heights to 60 ft
- The project as proposed with 28 ft typical building setbacks and maximum building heights of 60 ft complies with these guidelines.

Overall findings of the Preliminary Plan:

- conforms to the overall and specific land use guidelines of the Sector Plan;
- is consistent with the flexible density provisions of the County Council’s text Resolution (SP p.102) applicable to the Martens site and contained within The West End, Land Use recommendations (SP p.53);
- follows the Sector Plan’s RMX-2 zoning designation for the site; and includes commercial retail uses at a density significantly lower than the 0.5 FAR density maximum for the RMX-2 zone; and
- is in conformance with the Urban Form (SP p.50-51) and June 2010 Germantown Design Guidelines.

**Adequate Public Facilities Review (APF)**

Local Area Transportation Review (LATR)

Ten critical intersections were identified as being affected by the proposed development and were examined in the traffic study to determine whether they meet the applicable congestion standard for this area. The congestion standards in the Germantown West and Germantown Town Center Policy Areas are 1,425 and 1,600 Critical Lane Volumes (CLV), respectively. The traffic analysis indicated that all examined intersections in the study area are currently operating at acceptable CLV standard during the weekday morning and afternoon peak hours and will continue to operate satisfactorily with the

proposed development. Therefore, the Preliminary Plan application meets the LATR requirements of the APF review. The result of the CLV analysis is summarized in Table 1.

Table 1: Calculated Critical Lane Volume Values at Studied Intersections

<b>Intersections Analyzed</b>	<b>Existing</b>		<b>Background</b>		<b>Total</b>	
	<b>AM</b>	<b>PM</b>	<b>AM</b>	<b>PM</b>	<b>AM</b>	<b>PM</b>
Father Hurley Blvd/ Middelbrook Rd	812	977	1318	1276	1329	1291
Father Hurley Blvd/ Wisteria Dr	833	789	864	1086	856	814
Father Hurley Blvd/ Dawson Farm Rd	452	537	459	612	462	614
Father Hurley Blvd/ Hopkins Rd	330	427	548	741	549	743
MD 118/ Father Hurley Blvd Extension	N/A	N/A	545	777	551	784
MD 118/ Dawson Farm Rd	779	844	665	696	668	704
MD 118/ Wisteria Dr	911	1312	717	952	804	1074
MD 118/ Middlebrook Rd	969	1210	953	1247	1025	1316
MD 119/ Wisteria Dr	641	966	713	973	715	984
Waters Rd/ Wisteria Dr	463	468	293	360	595	663

Policy Area Mobility Review (PAMR)

The site is located within the Germantown West Policy Area where there is no PAMR trip mitigation requirement according to the Subdivision Staging Policy.

Site Access, Vehicular/Pedestrian Circulation and Rights-of-way

The site fronts onto Waterford Hills Boulevard extended and reconstructed Waters Road, via access from Father Hurley Boulevard and Wisteria Road, respectively. The proposed access point is adequate to accommodate the site-generated traffic. The proposed internal traffic/pedestrian circulation system shown on the Preliminary Plan is also adequate. The applicant proposes reduction of rights-of-way of Waterford Hill Boulevard from 112 feet to 110 feet and Waters Road from 80 feet to 70 feet. The applicant submitted a technical analysis justifying the proposed right-of-way reduction. Based on the technical analysis, even with the proposed right-of-way reduction on both Waterford Hills Boulevard and Waters Road, the roads would continue to provide for adequate levels of service and traffic operation with full development of the Martens property and buildout of the Sector Plan roadways. The right-of-way of Waters Road in the Germantown Sector Plan is 70 feet according to the referred cross-

section of the Sector Plan's right-of-way table. Therefore, staff supports the proposed reduction of the rights-of-way for Waterford Hills Boulevard and Waters Road.

Waters Road Connection to MD 118 – Study of Options [See Appendix C]

As per the Project Plan approval condition, the applicant designed a suitable alignment for the future connection of Waters Road to MD 118 including the acquisition impacts to other private properties which will be required for the construction of that road connection. Four design options were identified and are described below:

- A. Ultimate Through Movement Alignment – This alignment follows that depicted in the Master Plan with a 70' right-of-way, requiring right-of-way dedication evenly from the adjoining properties (Parcel 971 and Parcel 920).
- B. Interim "T" Intersection Alignment – This alignment is an interim T-intersection within a 60' right-of-way, requiring an interim retaining wall to eliminate the need for off-site grading easements on the north side (Parcel 920). All required right-of-way to accommodate this interim measure is shown on Parcel 971.
- C. Interim "Right-in/Right-out" Intersection – This alignment is an interim "Right-in/Right-out" intersection providing interim access alignment from the cul-de-sac to MD 118 within the existing right-of-way. This alignment is interim only because the right-of-way to align Waters Road with Bowman Mill Road is not available. It provides suitable traffic movement, but it does not achieve the pedestrian or vehicle linkages to the MARC station and does not conform to the Master Plan. It should be considered interim.
- D. Ultimate Through Movement Alignment with Reverse Curve – This alignment is a variation of the Master Plan recommended alignment with a reverse curve, temporarily within a 60' right-of-way. The right-of-way will be expanded to 70 feet when Parcel 920 is re-developed. Almost all of the 60' right-of-way required to build this alternative comes from Parcel 971 with only a small portion required from Parcel 920. This alternative was devised to minimize the dedication impact to Parcel 971, until it redevelops and can provide the additional right-of-way to achieve the full 70'.

Staff supports the alignments identified as Option A and D for future construction of the Waters Road connection to MD 118. Option A and D alignments are in conformance with the Master Plan recommendation to provide through movements and access to the MARC station.

The entire roadway network for the Martens Subdivision has been evaluated by Staff, the Montgomery County Department of Transportation (MCDOT), and the Montgomery County Department of Fire and Rescue Services (MCFRS) [Appendix B]. All agencies support the road system as shown on the Preliminary Plan and Site Plan including Option 1 and Option 2 for improvements of Waters Road typical section. The road network provides an efficient, continuous through movement of traffic with sufficient access to the larger roads in the area. Sidewalks are provided along all public streets for adequate pedestrian access.

**Other Public Facilities** - Public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Fire and Rescue Service, and they have determined that the property has appropriate access for fire and rescue vehicles [Appendix B]. Electrical and telecommunications services are also available to serve the Property. Washington Suburban Sanitary Commission recommends approval of the plan finding that local lines exist, and they are of adequate size to serve the proposed number of homes. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Subdivision Staging Policy.



The project is located in the Northwest School Cluster. Residential development in the Northwest school cluster currently requires a School Facility Payment at the elementary and high school level as a condition of approval for each unit of residential development.

On October 6, 2011, the Planning Board received a briefing on a potential change in the school facility payment and moratorium status of the Northwest school cluster. Three projects in the queue for residential development in the Northwest School Cluster propose enough development that at the middle school level a School Facility Payment would now be required as a condition of approval on at least some of the proposed development.

In terms of dwelling units, 24 detached units, or 29 attached units, or 44 garden units, or 77 high-rise units could be approved without requiring a School Facility Payment at the middle school level. Depending on which units proceed to building permit first, every unit over the above stated limits will require a School Facility Payment at the middle school level, in addition to the current requirement of a School Facility Payment at the elementary and high school level on all units.

For the Martens Property project, this means that if the High-Rise/Mid-Rise with Structured Parking units proceed to building permit first, 77 of these units will be required to make a School Facility Payment at the elementary and high school level, and all additional units will be required to make a School Facility Payment at all three school levels. If the townhouse units proceed to building permit first, a school facility payment will be required at the elementary and high school level for 29 units, and at all three school levels for the remaining units.

In addition to the change in School Facility Payment status, there is insufficient capacity at the elementary school level to approve all of the proposed development currently in the school queue. Any project requesting approval for units generating more than 62 elementary students will be required to cap the units requested such that no more than the available elementary level capacity is generated, after which, the cluster will enter moratorium.

For the Martens project, the number and type of units requested will generate 57 elementary students as shown in the table below.

Unit Type	Number of Units	Student Generation Rate Elementary Level	Potential Student Yield Elementary Level
<b>Townhouse</b>	<b>166</b>	.188	<b>31</b>
<b>Garden Apt</b>			
Building #2 (4 floors, surface parked)	35		
Building #3 (4 floors, surface parked)	75		
Building #4 (4 floor wing, surface parked)	43		
Total	<b>153</b>	.142	<b>21</b>
<b>High-Rise/Mid-Rise Structured Parking</b>			
Building #1 (5 floors)	52		
Building #2 (4 floors, structure parked)*	49		
Building #4 (5 floor wing)	35		
Total	<b>136</b>	.042	<b>5</b>
<b>Total</b>	<b>455</b>	n/a	<b>57</b>

\* See Table 2 below

Therefore, the Martens project will not be restricted by the pending moratorium. However, if all units, given the unit type requested, are approved, the Northwest Cluster will have a remaining development capacity that allows no more than five elementary level students to be generated.

Table 2: Units with structured parking

Proposed Development	Unit Types	Parking Ratio	Parking Spaces Required	Spaces Allocated to the Building by Unit Type	Units with Structured Parking
<b>Building 1</b>					
One bedroom	32	1.25	40	40	32
Two Bedroom	20	1.5	30	30	20
Three bedroom	0	2	0	0	0
<b>Building 2</b>					
One Bedroom	48	1.25	60	39	31
Two Bedroom	32	1.5	48	24	16
Three Bedroom	4	2	8	4	2

## Environment

**Natural Resource Inventory/Forest Stand Delineation (NRI/FSD)** – The site is subject to the Montgomery County Forest Conservation Law. NRI/FSD No. 420111000 was approved on January 25, 2011. The NRI/FSD identifies the environmental constraints and forest resources on the property. The property contains no forest. There are six trees 30 inches and greater diameter at breast height (DBH) and four trees between 24” and 30” DBH on the property. There is a stream on the adjacent properties to the southwest of the subject property. The property contains no wetlands and 0.34 acres of

environmental buffers.

**Final Forest Conservation Plan and Environmental Guidelines** – The Final Forest Conservation Plan (FFCP) was approved by the Planning Board in conjunction with Project Plan 92002002B on June 23, 2011. Per Section 22A-21 of the Montgomery County Forest Conservation Law, a variance was granted as part of the FFCP approval with the mitigation planting requirement to occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are 2" to 3" DBH. For the 102 caliper inches of trees removed, the applicant will mitigate with nine 3" DBH native canopy trees on the site. All mitigation plantings should be specifically labeled and detailed on the revised FFCP. As conditioned, the FFCP must identify the methods (on-site or off-site) to meet the afforestation requirement and identify the location of the on-site mitigation plantings as required by the variance approval.

As conditioned, this application complies with Chapter 22A of the Montgomery County Code.

### **Compliance with the Subdivision Regulations**

The application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all other applicable sections. The size, width, shape and orientation of the lots are appropriate for the location of the subdivision, given the recommendations of the 2009 Approved and Adopted Germantown Employment Area Sector Plan. The lot pattern is comparable to that approved as part of the Fairfield Subdivision to the west. The Fairfield development included one family attached lots with a lot and block pattern that is similar to that proposed under the Martens project. The Fairfield Subdivision also was approved with multi-family lots, again, in a similar pattern with respect to layout as that proposed under the Martens project. Staff finds that the size, shape, width and orientation of lots on the Martens project is appropriate and will provide a seamless continuation of the Fairfield Subdivision to the west.

### **Stormwater Management**

The proposed storm water management concept approved on October 12, 2011, meets the required stormwater management goals by the use of Environmental Site Design (ESD) for one inch of the required volume including microbiofilters, bioswales and porous paving. The existing dry stormwater pond will be used for the remaining volume that cannot be provided in the ESD facilities. Filtergrass and a volume based Stormfilter will be used for the Waters Road improvements. Staff finds that the plan complies with Section 50-24(j) which requires that stormwater requirements be satisfied as part of the Preliminary Plan review.

## **PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS**

The Preliminary Plan meets all requirements established in the Chapter 50 of the County Code, the Subdivision Regulations, and it is in substantial conformance with the recommendations of the Germantown Employment Area Sector Plan. Staff recommends approval of the Preliminary Plan, subject to the following conditions:

1. Total development under this Preliminary Plan is limited to 14,426 square feet of commercial uses, and a maximum of 455 residential units, including a minimum 12.5% Moderately Priced Dwelling Units (MPDU's), for 166 one-family attached units and 289 multiple-family units.

2. The applicant must reconstruct Waters Road to include a minimum 31-foot-wide pavement with curb and gutter and street trees within a minimum 51-foot-wide right-of-way as shown on the Preliminary Plan as Option 2 and with addition of street trees on the east side of the road. Alternatively, if the full 70-foot right-of-way becomes available through dedication by others before the applicant commences reconstruction of Waters Road, the applicant must reconstruct Waters Road to include a 38-foot-wide pavement with curb and gutter and street trees as shown on the Preliminary Plan as Option 1. Construction of either Option must be completed prior to issuance of the 350<sup>th</sup> building permit.
3. Prior to issuance of the 350<sup>th</sup> building permit, the applicant must install the required traffic control devices at the following intersections if the MCDOT finds that the signal is warranted based on their review of the applicant's submitted traffic signal warrant analysis.
  - Waters Road/Wisteria Drive
  - Waterford Hills Boulevard/Father Hurley Boulevard
4. Comply with the conditions of approval of the Final Forest Conservation Plan prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
5. Dedicate all road rights-of-way as shown on the approved Preliminary Plan.
6. Comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated November 14, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. Construct all road improvements within the rights-of-way shown on the approved Preliminary Plan and to the design standards imposed by the MCDOT.
8. Comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated October 12, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
9. Prior to issuance of any building permit for a residential structure, the applicant must make a school facilities payments to the Montgomery County Department of Permitting Services (MCDPS) at the appropriate school level(s). Because of the status of school operating capacities in the Northwest High School Cluster, the applicant is encouraged to consult with MNCPPC staff prior to submittal of building permits.
10. No plats may be recorded prior to certification of the Site Plan.
11. Final approval of the number and location of buildings, on-site parking, site circulation, and sidewalks will be determined at Site Plan.
12. The record plat(s) must show necessary easements.
13. The Certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures, and hardscape will be determined at the time of Site Plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

## SECTION 3: SITE PLAN REVIEW

### FINDINGS

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.*

Neither a development plan, diagrammatic plan nor a schematic development plan were required for the subject site.

The Site Plan is consistent with the approved Project Plan No. 92002002B for the Martens Property (MCPB Resolution No. 11-53) [Appendix A] in terms of design layout, development standards, and conditions of approval. As set forth on the Data Table below, the Site Plan is consistent with the development standards approved by the Project Plan including density, green area, building setbacks, and building height.

2. *The Site Plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

As demonstrated in the Data Table below, the Site Plan meets all of the requirements of the RMX-2 Zone under the optional method of development. The proposed uses are allowed in the RMX-2 Zone and the Site Plan meets the purpose of the zone by providing a mixed-use development with primarily residential uses (455 units including one-family attached and multi-family units) and some commercial uses (14,426 square feet).

The proposed development meets the density requirements of the zone and recommendations in the Sector Plan. The overall density, which is proposed at 0.74 FAR for the 26.48-acre site, is slightly below the maximum density of 0.8 FAR recommended by the Sector Plan for this site (p.53). The commercial density proposed is well below the maximum 0.5 FAR allowed and the gross leasable floor area is well below the maximum 600,000 square feet allowed. The residential density proposed at 17.18 du/ac is below the 30 du/ac allowed by the zone.

The Site Plan meets the minimum building setbacks requirements, except for the 30-foot setback requirement from residential zoning other than one-family. Although the RMX-2 zone is not a typical residential zone, for the purposes of this setback requirement, it is considered a 'residential zoning other than one-family.' The applicant requests a reduction to 15 feet (50% reduction) from the multi-family residentially zoned property located along the northwestern edge of the project.

Section 59-C-10.3.8 of the Zoning Ordinance specifically allows the Planning Board to reduce this setback by no more than 50% "upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property." Staff finds that the 50% setback reduction will not adversely affect the adjacent multi-family residential properties at Kildale Hills Terrace (to the northwest of the Property) for several reasons (see cross-section below). First, the existing multi-family residential properties are setback from the property line a minimum of 60 feet. This setback accommodates parking areas, open space and



As demonstrated in the Data Table below, the project meets all of the applicable requirements of the RMX-2 Zone under the optional method of development.

*Data Table for the RMX-2 Zone, Optional Method of Development*

<b>Development Standard</b>	<b>Zoning Ordinance Permitted/ Required</b>	<b>Approved with 92002002B for Phase II of the original approval</b>	<b>Proposed for Approval with 820110130</b>
<b>Site Area (acres)</b>			
Gross Tract Area	n/a	26.48	26.48 (1,153,469 SF)
Less Dedication for Public ROW Water's Road Waterford Hills Blvd Father Hurley Blvd	n/a	<u>3.12</u> (0.77) (2.35) (0.00)	3.12
Net Lot Area	n/a	23.36	23.36
<b>Density</b>			
Max. Commercial (FAR) [59-C-10.3.4]	0.5	0.01	0.01
Max. gross leasable (non-residential) floor area (SF) [59-C-10.3.5]	600,000	14,486	14,426
Residential D.U.s (> 30 acres site area) [59-C-10.3.6]	150 min.	455	455
Max. Residential Density (du/acre) [59-C-10.3.7]	30 residential areas 40 commercial areas	17.18	17.18
MPDUs [Chapter 25A] One-family attached Multi-family	12.5%	12.5% (57 MPDUs)	12.5% (57 MPDUs) (21) (36)
Max. Total FAR - residential - commercial - clubhouse & cabana	0.8 (922,775 SF) <sup>(a)</sup>	<u>0.74 (848,693 SF)</u> (828,707 SF) (14,486 SF) (5,500 SF)	<u>0.74 (854,000 SF)</u> (834,019 SF) (14,426 SF) (5,555 SF)
Unit Mix One-family attached Multi-family 1-Bedroom 2-Bedroom 3-Bedroom	n/a	169 286	166 <u>289</u> (143) (138) (8)
<b>Min. Green Area or outside amenity area [59-C-10.3.3]</b>			
Residential Commercial	50% 15%	50.0% (13.2 ac.)	50.0% (13.2 ac.)
<b>Min. Building Setbacks (ft) [59-C-10.3.8]</b>			
From one-family residential zoning	100	n/a	n/a
From residential zoning other than one-family (RMX-2/TS/RMX-2C) - Residential buildings	30	15 <sup>(b)</sup>	15 <sup>(b)</sup>

- Commercial bldgs	50	n/a	n/a
From Any Street <sup>(c)</sup>		To be determined at Site Plan	
- Residential buildings	0		0
One-family			0
Multi-family			n/a
- Commercial bldgs	0		
From abutting commercial or industrial zoning (I-3/PD-15 Zone)		n/a	n/a
- Residential buildings	30		
- Commercial bldgs	25		
<b>Max. Building Height (ft)</b>			
Overall	60 <sup>(d)</sup>		
One-family attached	n/a	45	45
Multi-family	n/a	60	60
<b>Min. Lot (Parcel) Area (SF)</b>			
One-family attached	n/a	n/a	1,250
Multi-family	n/a	n/a	15,000
<b>Min. Lot Width at Street Front (ft)</b>			
One-family attached	n/a	n/a	20
<b>Max. Building Coverage</b>			
One-family attached	n/a	n/a	90%
Multi-family	n/a	n/a	90%
<b>Vehicle Parking (number of spaces)</b>			
Retail auxiliary	51 (3.5 sp/1000 SF)		51
One-family attached (166 units)	332 (2 sp/unit)		535
Multi-family	<u>402</u>		<u>460</u>
1-Bedroom (143 units)	179 (1.25 sp/unit)		200
2-Bedroom (138 units)	207 (1.5 sp/unit)		242
3-Bedroom (8 units)	16 (2 sp/unit)		18
Total spaces	785	1,099	1,046
<b>Bicycle Parking (number of spaces)</b>			
Racks			25
Covered storage			40
Total	20 (5%/sp provided)	n/a	65
<b>Motorcycle Parking</b>			
Number of spaces	9.2 (2%/MF sp provided)	n/a	11

<sup>(a)</sup> Per the 2009 Approved and Adopted Germantown Employment Area Sector Plan recommendations for this site (p.53).

<sup>(b)</sup> The Planning Board may reduce the minimum setbacks, no greater than 50% upon a finding that trees or other features on the site permit a lesser setback without adversely affecting development on an abutting property. The applicant requests a reduction of the minimum setback from 30 to 15 feet for the front facing units (Units 17-27 on the north side of Waterford Hills Blvd). The required 30-foot setback is met for the rear facing units. Although the RMX-2 zone is not a typical residential zone, for the purposes of this setback requirement, it is considered a residential zoning other than one-family.

<sup>(c)</sup> No minimum setback required if in accordance with master plan.

<sup>(d)</sup> According to the Germantown Urban Design Guidelines (June 2010), page 31.



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

a) Locations of buildings and structures

The locations of the proposed buildings and structures are adequate, safe, and efficient. The Site Plan proposes a mixed-use development with 455 residential dwelling units (including 12.5% MPDUs) and 14,426 SF of commercial, yielding a 0.74 FAR on 26.48 gross acres.

The project includes four multi-family buildings with a combined total of 289 dwelling units (including 36 MPDUs), and 166 one-family attached (including 21 MPDUs). The commercial uses are primarily consolidated in the ground floor of Building 1 (11,980 SF). In addition, some commercial space is located in the ground floor of the Clubhouse building (1,250 SF) and at the southeast corner of Building 3 (1,196 SF).

The project is oriented along a principal east-west axis – Waterford Hills Boulevard – providing a connection between Father Hurley Boulevard and Waters Road. Several north/south internal connections complete the grid network of streets around which the residential units are proposed. The grid network facilitates vehicular and pedestrian movement through and within the project.



*Illustrative front elevation of rear-loaded units along Waterford Hills Boulevard*

Buildings along the Waterford Hills Boulevard provide a strong street edge and are oriented towards the street with rear-loaded garages. Buildings along the north/south internal connector streets are mostly front loaded with rear yards and green space in the rear. The multi-family buildings with a maximum height of 60 feet are oriented to Waters Road as recommended in the Sector Plan.



*Waters Road elevation*

The activation of Waters Road is a direct result of building orientation, minimal setbacks, and the mix of uses proposed. Both commercial uses and residential units proposed in the ground floor of the multi-family buildings along Waters Road have direct access to the street via separate ingress/egress points. The mix of uses include retail space covering the ground floor of Building 1, a commercial business center and leasing office in the multi-family Clubhouse building fronting on Waters Road, a meeting/function room in the southeast corner of Building 3, and residential units lining Buildings 3 and 4 at street level.



*Conceptual elevation of Building 4 with ground floor residential units with direct access to Waters Road*

Parking requirements for the 455 units are met on private lots, in surface parking areas, and in a 2-level parking structure. The project exceeds the parking requirement of 332 spaces for the townhouse units (2 per unit) by providing 535 spaces. This is accommodated on-site for all units via garages (1-car and 2-car) and driveway spaces. The project also exceeds the parking requirement of 402 spaces for the multi-family units by providing 460 spaces. Parking for the multi-family buildings is accommodated in surface parking areas and a 2-level parking structure located along the southern property boundary adjacent to the CSX tracks. The parking structure with 137 spaces will serve Buildings 1 and 2 due to its proximity to these buildings. The 51 parking spaces reserved for the commercial uses are located in surface parking areas immediately outside of Building 1, where the bulk of the commercial uses are located. Visitor parking is accommodated in the surface parking areas and via on-street parking on Waters Road and on-street parking during off-peak hours on Waterford Hills Boulevard. These parking spaces are subject to MCDOT and Fire Marshall's final approval. While the final determination of on-street parking in a public right-of-way is dependent on the Department of Permitting Services during permitting and ultimate site conditions, staff recommends continued coordination with the necessary Agencies to accommodate on-street parking.



*Conceptual elevation of the 2-level parking structure*

The location of the surface parking areas within the site and behind the multi-family buildings allows for an adequate orientation of the project towards Waters Road and Waterford Hills Boulevard. The 2-level parking structure abutting the CSX tracks adequately

deals with noise impacts at this location and takes advantage of the grade drop to avoid the need for internal ramps.

Bicycle parking facilities are efficiently located in proximity to residential units, amenity areas and circulation paths, which collectively encourage bicycle usage. A 5-bike rack is provided at each multi-family building and at the entrance to the Clubhouse amenity area. In addition, 2 different facilities provide the option for covered long-term storage of bicycles. A covered bike cage is located on the first level of the parking structure with capacity for 30 bicycles, and a bike storage shed is located on the north side of Building 4 with capacity for 10 bicycles.

b) Open Spaces

The open spaces provided are adequate, safe, and efficient. The RMX-2 Zone does not have an open space requirement; instead it has a minimum green area requirement of 50 percent of the gross tract area. The plan meets the green area requirements by providing a total of 50 percent (or 13.2 acres) of green space. All green areas (including the active/passive areas) will be accessible to all residents of the development.



*Illustration of the Green Commons*

The diversity of open spaces proposed is adequately dispersed throughout the development to provide safe and convenient access to all residents while efficiently providing relief from the density being proposed. Three main areas of open space are visually connected to each other and linked by smaller open spaces, sidewalks, and landscaping. (1) The green commons, located north of Waterford Hills Boulevard, consists of approximately 0.3 acres of open lawn framed by a row of townhouse facades on the north side and a 2.5-foot tall seating wall on the south side. The location and layout of this open space efficiently improves its visibility and accessibility by the general public. The applicant is proposing a public access easement over the green commons, however, this will ultimately be maintained and managed by the subsequent homeowner's association. Stipulations on the

use and function of the space are up to the homeowner's association. (2) The southeast open space/amenity area enclosed by multi-family buildings 1, 2, and 3 contains a clubhouse and cabana, a swimming pool, a wading pool, a volleyball court, open play area II and seating areas. (3) The southwest open space area consists primarily of a heavily landscaped SWM dry pond, which will serve mainly as a visual amenity, surrounded by a pedestrian path with fitness stations dispersed throughout.



*Three main areas of open space proposed*

An important open space corridor connects the SWM dry pond area to the multi-family amenity area, and to the MARC station beyond. The corridor originates at Waterford Hills Boulevard along the western property boundary, where a picnic pavilion with picnic tables and a tot lot are proposed. The corridor extends past the SWM dry pond through the rows of townhouses, where a tot lot and a play lot are located, to the multi-family building amenity area. This open space corridor efficiently allows for pedestrian movement and connectivity while creating safe opportunities for recreation and leisure.

c) Landscaping and Lighting

The landscaping with an emphasis on native species is adequate, safe, and efficient. The landscape plan achieves several objectives. It provides canopy coverage and shade for parking areas, roads, and open spaces. A variety of street trees line all the private roads and public streets. Waterford Hills Boulevard will be lined with willow oaks on both sides and in the median, which establishes continuity of the landscaping in the built portion of the Boulevard. Waters Road will be lined with honey locust trees in planting areas of approximately 5 by 24 feet.

In addition to canopy coverage and shade, the landscaping also defines open spaces and amenity areas by creating an edge or boundary, and adding interest. In the play lots and tot lots, the plant material delineates the perimeter of the play area which helps creating a safe environment for children. In the Green Commons area, Staff recommends eliminating the row of shrubs north of the retaining wall in order to allow seating on the 2.5-foot tall wall. Smaller plant material, such as herbaceous plants, evergreen and deciduous shrubs, and ornamental trees, emphasizes the entrance to the development and adds interest.

The landscaping provides screening and buffering within the project as well as between the project and adjacent properties. Within the project, a mix of evergreen shrubs adequately screens the pool area, the loading area behind the multi-family Building 1, the parking structure, and the noise wall. A similar treatment is used along the northern and northwestern property boundary, which contributes to an adequate visual separation between the proposed rear yards and the adjacent uses. Larger evergreen shrubs and trees along the southern property behind the parking structure and the noise wall adequately screen and create visual interest as viewed from the abutting the CSX tracks.

As proposed, the lighting consists of pole mounted light fixtures with a maximum height of 14 feet located on Waters Road, and 12 feet located on private streets and within the property. On Waterford Hills Boulevard, the lighting consists of high pressure sodium light fixtures with a maximum height of 30 feet and 20 feet on top of the parking structure. However, staff recommends that the lighting on Waterford Hills Boulevard be replaced with a similar fixture as Waters Road with a maximum height of 14 feet, which is more residential in character. Staff also recommends that the lighting on the top of the parking structure be reduced in height to 12 feet (as measured from the surface of the parking level to the top of the light pole), which reduces visibility from the nearby multi-family units overlooking the parking structure and improves compatibility. Wall mounted light fixtures are provided at the entrances to the multi-family buildings. As conditioned, the lighting will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. The lighting recommended by Staff is adequate, safe and efficient.

d) Recreation Facilities

The recreation facilities provided are safe, adequate, and efficient. They include two play lots, two tot lots, an open play area II, an open play area I, a volleyball court, a swimming pool, a wading pool, eleven seating areas (including a picnic pavilion), a pedestrian system, and five outdoor fitness stations. As demonstrated in the tables below, this development meets all the recreation requirements on-site through these facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines. The facilities adequately and efficiently meet the

recreation requirements of this development, while providing safe and accessible opportunities for recreation for the various age groups.

Demand		D1	D2	D3	D4	D5
	Number of Units	Tots	Children	Teens	Adults	Seniors
Housing Type		0 to 4	5 to 11	12 to 17	18 to 64	65+
TH	166	28.22	36.52	29.88	214.14	11.62
Garden (4 or less)	289	31.79	40.46	34.68	341.02	46.24
Hi-Rise (5 or more)	87	3.48	3.48	3.48	66.99	40.02
		63.49	80.46	68.04	622.15	97.88

On-Site Supply		D1	D2	D3	D4	D5
	Quantity Provided	Tots	Children	Teens	Adults	Seniors
Recreation Facility		0 to 4	5 to 11	12 to 17	18 to 64	65+
Tot Lot	2	18.00	4.00	0.00	8.00	2.00
Play Lot	2	0.00	18.00	6.00	8.00	2.00
Picnic/Sitting	11	11.00	11.00	16.50	55.00	22.00
Open Play Area I	1	6.00	9.00	12.00	30.00	2.00
Open Play Area II	1	3.00	4.00	4.00	10.00	1.00
Volleyball	1	2.00	2.00	3.00	8.00	1.00
Pedestrian System	1	6.35	16.09	13.61	279.97	44.05
Swimming Pool	1	3.49	16.49	13.95	155.54	14.68
Wading Pool	1	9.52	4.02	0.00	31.11	4.89
Outdoor Fitness Facility	0.5	0.00	4.02	3.40	62.22	7.34
	total:	59.36	88.63	72.46	647.83	100.96

Adequacy of Facilities		D1	D2	D3	D4	D5
Gross Total Supply		59.36	88.63	72.46	647.83	100.96
Total Supply		59.36	88.63	72.46	647.83	100.96
90% Demand		57.15	72.42	61.24	559.94	88.1
Adequate?		yes	yes	yes	yes	yes

#### Recreation Calculations

Although credit for off-site facilities was not requested with this application, several facilities in the immediate vicinity of the site provide additional opportunities for recreation and leisure of the future residents. The site is within half mile distance from the Up-County Regional Services Center, the Germantown Commons Shopping Center, and Sugarloaf Shopping Center, and the Germantown Elementary School. The site is within ¼ of a mile distance from Seneca Valley High School, Lake Seneca Elementary School, and M L King Jr. Middle School.



*Offsite Amenity Exhibit*

e) Pedestrian and Vehicular Circulation Systems

The pedestrian and vehicular circulation systems are safe, adequate, and efficient.

Access to the site will be provided via an entrance on Waters Road on the eastern property boundary and an extension of Waterford Hills Boulevard as a central corridor through the site connecting to Father Hurley Boulevard to the west. Waterford Hills Boulevard is also part of a future extension of the Town Center ‘Main Street,’ which is envisioned as a pedestrian-friendly thoroughfare through the community. Sidewalks are proposed on both sides of the boulevard and a center median with a continuous row of street trees divides opposite travel lanes.

Vehicular circulation is efficiently directed through the site through a grid of private streets that originate on Waterford Hills Boulevard. These streets provide adequate access to rear-loaded townhouse units, private alleys serving front-loaded units, and surface parking areas serving the multi-family buildings.

The vehicular circulation system adequately integrates this site in the surrounding area. The Site Plan shows an internal connection between proposed Private Alley A and the existing private street at the Ashmore at Germantown community. Additionally, the applicant will reserve an area from the edge of Private Road A to the northern property line to allow for a future connection to the adjacent property. The applicant will enter into a reciprocal access easement with the owner of the adjacent property upon their redevelopment when the Planning Board deems it necessary to have reciprocal access through both properties. These inter-parcel connections facilitate vehicular and pedestrian movement and provide alternative routes for circulation.



*Illustrative rendering of the site's access at Waters Road and Waterford Hills Boulevard*

In the immediate vicinity of the site, the applicant also provided various options for the design of the alignment of the Waters Road connection to MD 118 as directed by the Project Plan condition of approval #8. The applicant prepared drawings [Appendix C] that identified the properties that would need to be acquired to accommodate the full 70 foot wide right-of-way for Waters Road and how the pavement cross section would work within that right-of-way. The plan drawings identified a suitable “final” alignment of a Waters Road connection to MD 118 that satisfied the Master Plan’s recommendations. An interim option for Waters Road was also included to show how the road could be designed if acquisition of the entire 70-foot wide right-of-way were not available, referred to as an interim design. The interim alternative intended to address neighbors concerns and potentially different timing for the redevelopment of the affected properties, as well as agency concerns and Sector Plan recommendations. The “final” alignment with a curved alignment reinforces Waters Road as the through movement to MD 118, and as reflected on the Master Plan illustrations. In coordination with MCDOT and SHA, staff supports the final curved alignment proposed, which meets the Project Plan condition of approval.

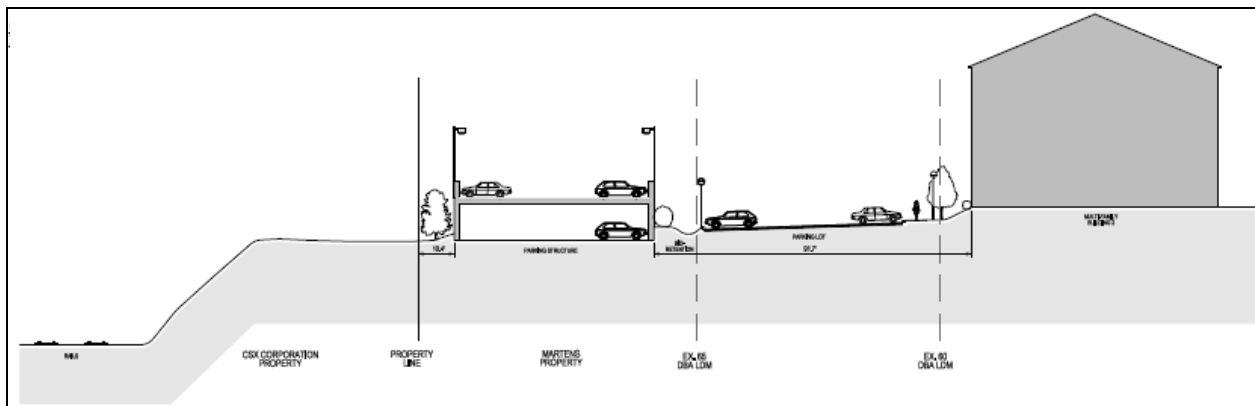
Pedestrians will access the site via sidewalks on all public and private streets. In addition, pedestrians will be able to access the site from MD 118 (and the MARC Station beyond) via an 8-foot wide pathway connecting the cul-de-sac on existing Waters Road to the sidewalk along MD 118. This pedestrian connection combined with the sidewalk system onsite, effectively accommodates pedestrian traffic from the residential neighborhoods to the west, through the site to the MARC Station. Within the site, the sidewalk system provides access to all the public spaces and amenities including a meandering pathway around the periphery of the SWM dry pond. Seating areas will be provided at selected nodes.

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



The structures and uses proposed are compatible with other uses and site plans, and with existing and proposed adjacent development. The proposed mixed-use development includes four multi-family buildings with a combined total of 289 dwelling units and 166 one-family attached units, and 14,426 square feet of commercial uses, yielding a 0.74 FAR. The residential density proposed at 17.2 du/ac is comparable to the residential density at Fairfield of Germantown at 16.8 du/ac. The density and uses proposed are compatible with the location of the site on the west end of the Germantown Town Center area abutting the CSX tracks and within a ½ mile radius of the MARC Station. Locating the proposed commercial uses along Waters Road is compatible with the existing confronting uses on this road, which are more commercial in nature.

Compatibility with the CSX tracks and mitigation of the effects caused by this proximity is achieved through the design and location of the various buildings and amenities on site. The SWM pond will be relocated to the southeast corner of the site abutting the tracks, which effectively increases the separation between the townhouses (north of the pond) and the tracks. Noise mitigation measures, including a noise barrier, will be constructed between the rail tracks and the impacted townhouse buildings at the far south of the project resulting in interior noise levels below 45 dBA using standard construction materials, according to the Polysonics Railway Noise Impact Analysis dated April 21, 2011. A parking structure is proposed against the CSX tracks, which will help to buffer noise for the multi-family buildings.



*Cross section through CSX tracks to Martens Property through proposed parking structure and multi-family building 2*

Within the site, compatibility will be achieved through architectural treatments on the side façades of corner units and MPDUs front façades. As conditioned, the side façades of certain corner units will include materials and architectural design treatment comparable to the fronts of those units. The fronts of the MPDUs will be designed and finished with architectural elements comparable to those found on other attached units within the site.

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.*

The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, and Chapter 19 regarding water resource protection. This site is subject to the County Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420111000 for this property was approved on January 25, 2011. The property contains no forest. There are six trees 30 inches and greater diameter at breast height (DBH) and four trees between 24" and

30" DBH on the property. The Final Forest Conservation Plan (FFCP) was approved by the Planning Board in conjunction with Project Plan 92002002B on June 23, 2011. Per Section 22A-21 of the Montgomery County Forest Conservation Law, a variance was granted as part of the FFCP approval with the mitigation planting requirement to occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are 2" to 3" DBH. For the 102 caliper inches of trees removed, the applicant will mitigate with nine 3" DBH native canopy trees on the site. All mitigation plantings should be specifically labeled and detailed on the revised FFCP. As conditioned, the FFCP must identify the methods (on-site or off-site) to meet the afforestation requirement and identify the location of the on-site mitigation plantings as required by the variance approval.

The proposed storm water management concept approved on October 12, 2011, meets the required stormwater management goals by the use of Environmental Site Design (ESD) for one inch of the required volume including microbiofilters, bioswales and porous paving. The existing dry stormwater pond will be used for the remaining volume that cannot be provided in the ESD facilities. Filterrras and a volume based Stormfilter will be used for the Waters Road improvements.

## RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan 820110130, Martens Property, for a mixed-use development with 455 residential dwelling units (including 12.5% MPDUs) and 14,426 SF of commercial, yielding a 0.74 FAR on 26.48 gross acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on October 10, 2011, and October 19, 2011, are required except as modified by the following conditions.

### Conformance with Previous Approvals

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan No. 92002002B, as listed in MCPB Resolution No. 11-53, unless amended.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan No. 120110090, or as amended.

### Environment

3. Forest Conservation

The proposed development must comply with the conditions of approval for the Final Forest Conservation Plan approved on June 23, 2011. The applicant must meet all conditions prior to the recording of a plat(s) or the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.

a) Submit revised Final Forest Conservation Plan, prior to Certified Site Plan, showing how the afforestation requirement will be met and where the on-site mitigation plantings as required by the variance approval will be located.

4. Noise Attenuation

a) Prior to issuance of the first building permit, the applicant must provide certification from an acoustical engineer that:

- the location of the noise mitigation techniques to attenuate current noise levels to no more than 60 dBA Ldn for the outdoor backyard area of homes and areas of common outdoor activity are adequate.
- the building shell for residential dwelling units to be constructed within the projected 65 dBA Ldn noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.

b) Prior to issuance of the final use and occupancy permit, the applicant must certify that interior noise levels do not exceed 45 dBA Ldn for the affected units.

c) For all residential dwelling units constructed within identified noise impact areas, the applicant/developer/builder shall disclose in writing to all prospective purchasers that they are located within an area impacted by current or future highway or railway noise. Such notification will be accomplished by inclusion of this information in all sales contracts, brochures and promotional documents, including the Illustrative Site Plan(s) on display within any sales related office(s), as well as in Homeowner Association Documents, and by inclusion on all Subdivision and Site Plans, and within all Deeds of Conveyance.

d) All noise walls must be clearly identified and labeled on the Landscape and Lighting Plan prior to Certified Site Plan.

5. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated October 12, 2011 unless amended and approved by the Montgomery County Department of Permitting Services.

**Parks, Open Space, and Recreation**

6. Common Open Space Covenant

Record Plat of Subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to the M-NCPPC staff prior to issuance of the 350<sup>th</sup> building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

7. Recreation Facilities

- a) Meet the square footage requirements for all of the applicable proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) Provide the following recreation facilities: two play lots, two tot lots, an open play area II, an open play area I, a volleyball court, a swimming pool, a wading pool, eleven seating areas (including a picnic pavilion), a pedestrian system, and five outdoor fitness stations.

**Transportation & Circulation**

8. Transportation

The development is limited to a 0.74 FAR including 14,426 SF of commercial uses and 455 residential units (289 multi-family units and 166 one-family attached units), unless amended.

9. Right-of-way

Address DPS right-of-way comments in the correspondence dated November 10, 2011, prior to Certified Site Plan.

10. Reciprocal Access Easement

The applicant must reserve an area from the edge of Private Road A to the northern property line to allow for a future connection to the adjacent property. The applicant shall enter into a reciprocal access easement with the owner of the adjacent property upon their redevelopment when the Planning Board deems it necessary to have reciprocal access through both properties. The easement shall be for the sole purpose of reciprocal access, must be compatible with the overall site layout of the applicant's property and the adjacent property, and may be reasonably relocated by the applicant in the event of any future redevelopment of the applicant's property or by the adjoining properties in the event of their redevelopment.

11. Public Access Easement

The applicant must provide a public access easement over the Green Commons area at the time of Record Plat.

**Density & Housing**

12. Moderately Priced Dwelling Units (MPDUs)

- a) The development must provide a minimum of 12.5% of the total number of units as MPDUs on-site, consistent with the requirements of Chapter 25A.
- b) The MPDU agreement to build shall be executed prior to the release of any building permits.
- c) All of the required MPDUs shall be provided on-site.

## Site Plan

### 13. Compatibility/Architecture

- a) The exterior architectural character, proportion, materials, and articulation of the multi-family buildings must be substantially similar to the conceptual elevations shown on Sheet A.01-A.02 of the submitted architectural drawings (date stamped October 19, 2011), as determined by the M-NCPPC staff.
- b) The fronts of the MPDUs townhouses must be designed and finished with architectural elements, including masonry materials, comparable to those found on other similar market rate units within the site.
- c) Townhouse Units 1, 16, 30, and 76 on the north side of Waterford Hills Blvd, and Townhouse Units 1, 32, 49, 66, and 86 on the south side shall be designated Elevation A units. Elevation A consists of a 3-story brick façade, and a minimum of 5 windows or window features.
- d) Townhouse Units 31, 39, 60, 67 and 68 and 80 on the north side of Waterford Hills Blvd, and Townhouse Units 16, 17, 23, 24, 31, 38, 48, 65 and 78 on the south side shall be designated Elevation B units. Elevation B consists of a minimum 1-story brick façade, and a minimum of 4 windows or window features.
- e) Townhouse Unit 75 on the north side of Waterford Hills Blvd, and Townhouse Units 44 and 61 on the south side shall be designated either Elevation B or Elevation C units. Elevation C consists of a siding façade and a minimum of 5 windows or window features.

### 14. Landscaping

Eliminate the row of shrubs north of the retaining wall in the Green Commons area.

### 15. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b) All on-site down- light fixtures must be full cut-off fixtures.
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d) Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The height of the light poles above grade must not exceed 12 feet including the mounting base on all private streets and amenity areas.
- f) The height of the light poles above grade must not exceed 14 feet including the mounting base on Waterford Hills Boulevard and Waters Road, subject to final approval by MCDOT.
- g) The height of the light poles must not exceed 12 feet including the mounting base on the garage top, as measured from the surface of the parking level to the top of the light pole.

### 16. Landscape Surety

Provide a performance bond(s) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a) The amount of the surety shall include plant material, on-site lighting, recreational facilities, bicycle facilities and site furniture (including picnic pavilion) within the relevant phase of development. Surety to be posted prior to issuance of the first residential building permit within each relevant phase of development and shall be tied to the development program.
- b) Provide a cost estimate of the materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c) Completion of plantings by phase to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d) Provide a Site Plan Surety and Maintenance Agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first residential building permit.

17. Development Program

Construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan with the exception of a Rough Grading Sediment Control Plan which, as noted in the Project Plan Resolution dated September 19, 2011, may be approved and performed in advance of Preliminary Plan or Site Plan approval. The development program must include the following items in its phasing schedule:

- a) Clearing and grading must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- b) The development program must provide phasing for installation of on-site landscaping and lighting.
- c) Community-wide pedestrian pathways and recreation facilities must be completed prior to the following thresholds:
  - North of Waterford Hills Boulevard:
    - i. The Green Commons abutting the Boulevard and the asphalt path along the northern property boundary must be completed prior to issuance of the 60<sup>th</sup> townhouse building permit, which represents 75 percent of the 80 townhouse units north of Waterford Hills Boulevard.
  - South of Waterford Hills Boulevard:
    - ii. The pedestrian system, five outdoor fitness stations, and associated seating surrounding the dry stormwater management pond, together with the picnic pavilion, including picnic tables and grills, and tot lot immediately north of the pond must be completed prior to the release of the final use and occupancy permit for units 32-43.
- d) Local recreational facilities and site elements must be completed prior to the following thresholds:
  - North of Waterford Hills Boulevard:
    - i. The play lot north of Building 4 must be installed prior to the release of the final use and occupancy permit for Building 4.
  - South of Waterford Hills Boulevard:
    - ii. The Clubhouse, swimming pool, wading pool, volleyball court and open play area II must be completed prior to the release of the final residential use and occupancy permit for the third multi-family building constructed in this cluster (either Buildings 1, 2, or 3).

- iii. The recreation area, including multi-age playground and tot lot, located between units 48-49 and 65-66 must be installed prior to issuance of the 65<sup>th</sup> townhouse building permit, which represents 75 percent of the 86 townhouse units south of Waterford Hills Boulevard.
- e) On-site amenities including, but not limited to, sidewalks, benches, picnic tables, trash receptacles, and bicycle facilities must be installed as construction of each recreational facility is completed.
- f) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
- g) Provide each section of the development with necessary roads.
- h) Waters Road must be completed, fully improved, and open to traffic prior to the release of the 350<sup>th</sup> residential building permit.
- i) Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- j) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

18. Certified Site Plan

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

- a) Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and Site Plan Resolution on the approval or cover sheet.
- b) Add a note to the Site Plan stating that the “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- c) Modify data table to reflect development standards enumerated in the staff report.
- d) Provide maximum building height for the Clubhouse and cabana.
- e) Update architectural floor plans to reflect the proposed unit mix.

**APPENDICES**

- A. Previous approval, MCPB Resolution No. 11-53
- B. Reviewing Agency Approvals
- C. Applicant’s Options for the Waters Road connection to MD 118
- D. Applicant’s Correspondence
- E. Community Correspondence

# Appendix A





# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-53

Project Plan No. 92002002B

Project Name: Martens Property (formerly Fairfield at Germantown)

Date of Hearing: June 23, 2011

## MONTGOMERY COUNTY PLANNING BOARD

### RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-2, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review project plan applications; and

WHEREAS, on January 4, 2011, Buchanan Acquisitions, LLC ("Applicant"), filed an application for approval of a project plan for 455 dwelling units (including 12.5% MPDUs) and 14,486 SF of commercial uses ("Project Plan"), on 26.48 acres of RMX-2-zoned land, near the intersection of Wisteria Drive and Waters Road in Germantown ("Property" or "Subject Property"); and

WHEREAS, Applicant's project plan application was designated Project Plan No. 92002002B, Martens Property (the "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated June 8, 2011, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on June 23, 2011, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 23, 2011, the Planning Board approved the Application subject to conditions, on the motion of Commissioner Dreyfuss; seconded by Commissioner Wells-Harley; with a vote of 5-0, Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor.

Approved as to  
Legal Sufficiency:

*Christina Sorrent* 9/1/11  
M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Page 40 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Project Plan No. 92002002B for 455 dwelling units (including 12.5% MPDUs) and 14,486 SF of commercial uses, on 26.48 gross acres in the RMX-2 zone, subject to the following conditions:

1. Project Plan Conformance

The proposed development must comply with the conditions of approval for Project Plan No. 920020020, except as modified by this Application.

2. Site Plan Conformance

Site Plan No. 82003003B must be amended to allow the proposed increase in residential density on the 62.4-acre site prior to approval of the subject Application.

3. Previous Approvals

All previous approvals remain in full force and effect unless modified by this Application.

4. Development Ceiling

The proposed development for Phase II (26.48 acres) is limited to a 0.74 FAR including 14,486 SF of commercial uses and 455 dwelling units.

5. Housing

The development must provide a minimum of 12.5 percent as MPDUs onsite, consistent with the requirements of Chapter 25A.

6. Building Access Points

- a) The multi-family buildings fronting on Waters Road must have a minimum of one (ideally more) pedestrian ingress/egress points off Waters Road for the residential units.
- b) The commercial portion of this development must be located along Waters Road and have individual pedestrian ingress/egress points off Waters Road.

7. Transportation

The Applicant must reconstruct Waters Road to include a minimum 31-foot wide pavement width with curb and gutter and street trees within a minimum 51-foot-wide right-of-way as shown on the Project Plan as Option 2, and with the addition of street trees on the east side of the road. Alternatively, if the full 70-foot right-of-way becomes available through dedication by others before the Applicant commences reconstruction of Waters Road, the Applicant must reconstruct

Waters Road to include a 38-foot-wide pavement width with curb and gutter and street trees as shown on the Project Plan as Option 1.

8. Waters Road Connection to MD 118

The Applicant must design the final alignment and identify future dedications for the construction of the Waters Road connection to MD 118 prior to approval of the Applicant's preliminary plan.

9. Forest Conservation

Prior to certified site plan, submit a revised Final Forest Conservation Plan specifying either on-site or off-site methods to meet the afforestation requirements of the site.

10. Public facilities and amenities

- a) The public facilities and amenities provided must include at a minimum a clubhouse with an indoor exercise room and an indoor community space, a swimming pool, a wading pool, two tot lots, two open play areas, nine seating areas, a dog park (if permitted by site conditions), and a pedestrian system. However, the Planning Board may approve other facilities that are equal to or better than these at the time of site plan approval.
- b) The final design and details of the public facilities and amenities will be determined during site plan review.
- c) The proposed Green Commons area must front on Waterford Hills Boulevard and be easily and readily accessible to the general public.

11. Rough Grading

Rough grading of the site and demolition of existing structures can be performed prior to Site Plan or Preliminary Plan approval provided the Final Forest Conservation Plan has been approved, a Rough Grading Sediment Control Plan to minimize soil erosion is approved, and M-NCPPC performs an inspection and approval of all tree-save areas and protection devices.

12. Coordination for Additional Approvals Required Prior to Preliminary Plan and Site Plan Approval

- a) The Applicant must obtain written approval from the Montgomery County Department of Transportation (MCDOT) for the final design and extent of any and all streetscape improvements within the rights-of-way.
- b) The Applicant must submit the traffic signal warrant analyses at preliminary plan consistent with the MCDOT's request.
- c) The final cross-section and right-of-way dimensions for Waterford Hills Boulevard and Waters Road will be finalized at the time of preliminary plan approval in coordination with MCDOT using the new Context Sensitive Design standards.

- d) A detailed development program including project phasing and construction of amenities and Waters Road improvements will be required prior to approval of the certified site plan.
- e) The final details of the noise study and follow-up recommendations will be determined at the time of site plan approval.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record and all applicable elements of § 59-D-2.43, the Montgomery County Planning Board, with the conditions of approval, FINDS:

**(a) The proposed development complies with all of the intents and requirements of the RMX-2 zone.**

Section 59-C-10.1 of the Montgomery County Zoning Ordinance establishes the RMX-2 Zone, identified as Residential-Mixed Use Development, Specialty Center. Division 59-C-10 does not include a purpose and intent section for the RMX (Residential Mixed-Use) Zone, and the term 'specialty center' is not defined in the Zoning Ordinance. The Planning Board also consulted the 1989 master plan and 2009 sector plan in order to address this finding. While the 1989 master plan recommends rezoning this Property from the I-1 Zone to the RMX Zone, neither document provides a purpose and intent statement for the RMX Zone.

Therefore, the Planning Board relies on the term 'Residential-Mixed Use Development' to help support its recommendation that the Application meets the general intent of the zone. Section 59-C-10.3.1 adds further guidance with the following language:

"This optional method of development accommodates mixed use development comprised of planned retail centers and residential uses, at appropriate locations in the County. This method of development is a means to encourage development in accordance with the recommendations and guidelines of approved and adopted master plans." and

"Approval of this optional method of development is dependent upon the provision of certain public facilities and amenities by the developer. The requirement for public facilities and amenities is essential to support the mixture of uses at the increased densities of development allowed in this zone"

The Project Plan amendment proposes a mixed use development with primarily residential uses (455 units including townhouses and multi-family units) and some

commercial uses (14,486 SF). The density and amenities achieved through the optional method of development help to realize the recommendations of the 2009 Approved and Adopted Germantown Employment Area Sector Plan, as described in Finding (b) below.

The public facilities and amenities provided are divided into three main areas: (1) the Green Commons with a tot lot, open play area II, and seating areas; (2) the southeast amenity area, which is enclosed by the multi-family buildings and includes a clubhouse with an indoor exercise room and an indoor community space, a swimming pool, a wading pool, a tot lot, open play area II, and seating areas; and (3) the southwest amenity area which surrounds a stormwater management (SWM) dry pond and includes a dog park, seating areas, and a pedestrian path. The Applicant has also proffered to reconstruct Waters Road with 31-foot wide pavement, curb and gutter, and street trees within the existing 51-foot right-of-way. Alternatively, if the full 70-foot right-of-way becomes available, Waters Road will be reconstructed with 38-foot wide pavement, curb and gutter, and street trees on both sides. Overall, these public facilities and amenities will support the mixture of uses at the increased densities proposed.

The Subject Property is zoned RMX-2, which is governed by the development standards in Section 59-C-10.3 of the Montgomery County Zoning Ordinance. The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the development standards proposed for approval. The Board finds, based on the aforementioned data table, other uncontested evidence, and testimony of record, that the Application meets all of the applicable requirements of the RMX-2 zone under the optional method of development. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

**Project Data Table for the RMX-2 Zone (Optional Method of Development)**

<b>Development Standards</b>	<b>Approved by the Planning Board and Binding on the Applicant (entire site)</b>	<b>Approved by the Planning Board and Binding on the Applicant (Subject Project Plan)</b>
<b>Site Area (acres)</b>		
Gross Tract Area	<u>62.58</u>	
Phase I	(36.10)	
Phase II	(26.48)	26.48
Less Dedication for Public ROW	<u>7.06</u>	<u>3.12</u>
Water's Road	(0.77)	(0.77)
Waterford Hills Blvd	(5.39)	(2.35)
Father Hurley Blvd	(0.90)	(0.00)

Net Lot Area	<u>55.52</u>	
Phase I	(32.16)	
Phase II	(23.36)	(23.36)
<b>Density</b>		
Max. Commercial (FAR) [59-C-10.3.4]	0.005	0.01
Max. gross leasable (non-residential) floor area (SF) [59-C-10.3.5]	14,486	14,486
Residential D.U.s (> 30 acres site area) [59-C-10.3.6]	1,059 <sup>(a)</sup>	455
Max. Residential Density (du/acre) [59-C-10.3.7]	16.9	17.18
MPDUs [Chapter 25A]	14% (148 MPDUs) <sup>(a)</sup>	12.5% (57 MPDUs)
Max. Total FAR	<u>0.53 (1,435,229 SF)</u>	
Phase I	0.22 (586,536 SF)	
Phase II	0.31 (848,693 SF)	
- residential		<u>0.74 <sup>(b)</sup> (848,693 SF)</u>
- commercial		(828,707 SF)
- clubhouse		(14,486 SF)
		(5,500 SF)
<b>Min. Green Area or outside amenity area [59-C-10.3.3]</b>		
Residential	51.0% (31.9 ac.) <sup>(c)</sup>	50.0% (13.2 ac.)
Commercial		
<b>Min. Building Setbacks (ft) [59-C-10.3.8]</b>		
From one-family residential zoning	n/a	n/a
From residential zoning other than one-family (RMX-2/TS/RMX-2C) - Residential buildings - Commercial bldgs	To be determined at Site Plan <sup>(d)</sup>	
From Any Street - Residential buildings - Commercial bldgs	To be determined at Site Plan <sup>(e)</sup>	
From abutting commercial or industrial zoning (I-3/PD-15 Zone) - Residential buildings - Commercial bldgs	n/a	n/a
<b>Max. Building Height (ft.) <sup>(f)</sup></b>		
Overall		
Townhouse		45
Multi-family		60
<b>Parking (number of spaces) <sup>(g)</sup></b>		
Office	n/a	n/a

Retail	51 <sup>(h)</sup> (@ 3.5sp/1000)	51 (@ 3.5sp/1000)
Residential	1,589 <sup>(h)</sup>	737
1-Bedroom	525 (420 units)	150 (120 units)
2-Bedroom	642 (428 units)	249 (166 units)
3-Bedroom	422 (211 units)	338 (169 units)
Total spaces		
Required	1,640 <sup>(h)</sup>	788
Approved/Proposed	2,119 <sup>(h)</sup>	1,099 <sup>(g)</sup>

<sup>(a)</sup> Site Plan 82003003B approved a maximum of 604 dwelling units including 91 MPDUs (or 15%). This approval superseded the project plan residential cap, therefore the tabulations for the entire site (2<sup>nd</sup> column in the table) were calculated using the approved 82003003B and the tabulations for the amended area (3<sup>rd</sup> column in the table).

<sup>(b)</sup> Consistent with the 2009 Approved and Adopted Germantown Employment Area Sector Plan recommendations for this site (p.53).

<sup>(c)</sup> Includes 18.74 acres of green space provided in Phase I.

<sup>(d)</sup> The Planning Board defers the decision to reduce the minimum building setbacks by 50% until Site Plan approval. Although the RMX-2 zone is not a typical residential zone, for the purposes of this setback requirement it is considered a residential zoning other than one-family.

<sup>(e)</sup> Minimum building setback from streets to be determined at site plan once the final cross-section and right-of-way dimensions for Waterford Hills Boulevard and Waters Road have been finalized.

<sup>(f)</sup> According to the Germantown Urban Design Guidelines (June 2010), page 31.

<sup>(g)</sup> The final number of parking spaces will be determined at the time of site plan approval when the bedroom mix has been finalized.

<sup>(h)</sup> Totals based on numbers approved with Site Plan 820030030B which superseded the earlier project plan approval.

Pursuant to 59-C-10.3, the minimum green area requirement is 15% for the commercial portions of a site and 50% for the residential portions. Since the commercial portion of this development is minimal, located within the residential buildings, and has a lower green space requirement, the entire site was considered primarily residential and thus the minimum 50% requirement was applied to the entire site. This ensured that both the commercial and residential green area requirements were met. The Project Plan meets the requirement by providing 50% (or 13.2 acres) green space on site. Collectively, both phases of the entire development satisfy the green space requirement.

The proposed development meets the density requirements of the zone and recommendations in the Sector Plan. The overall density, proposed at 0.74 FAR for the 26.48-acre site, is slightly below the maximum density of 0.8 FAR recommended by the Sector Plan for this site (p.53). The commercial density proposed is well below the maximum 0.5 FAR allowed and the gross leasable floor area is well below the maximum 600,000 SF allowed. The residential density proposed at 17.18 du/ac is below the 30 du/ac allowed by the zone.

The Planning Board defers its decision to reduce the minimum building setback requirements for residentially zoned property, other than reducing one-family by 50%, until Site Plan approval, where the Applicant will request a reduction to the building setback for the multi-family residentially zoned property located along the northwestern edge of the project by 50% from 30 feet to 15 feet.

**(b) The proposed development conforms to the 2009 Approved and Adopted Germantown Employment Area Sector Plan approved under Chapter 56.**

The Project Plan is consistent with and in substantial conformance with the 2009 Approved and Adopted Germantown Employment Area Sector Plan (Sector Plan). The Project Plan:

- Conforms to the overall and specific land use guidelines of the Sector Plan;
- Is consistent with the flexible density provisions of the County Council's Resolution adopting the Sector Plan (SP p.102 and p.18 of Resolution) applicable to the Martens site and contained within the West End, Land Use recommendations (SP p.53);
- Follows the Sector Plan's RMX-2 zoning designation for the site; and includes commercial retail uses at a density significantly lower than the 0.5 FAR density maximum for the RMX-2 zone; and
- Is in conformance with the Urban Form (SP p.50-51) and June 2010 Germantown Urban Design Guidelines.

Applicable Sector Plan Goals, Objectives, and Provisions for Land Use

The primary Sector Plan guidance for the Martens Application, the 26.48 acre unbuilt portion of the property, is established in the Sector Plan's Land Use and Town Center/ West End Land Use plan exhibits (SP p.44-45). The designated land use for the property is Residential, mixed use (primarily residential).

- The proposed mixed use development with the majority of the land use as residential (455 residential units) and the inclusion of supporting commercial uses (14,486 square feet) follows these Sector Plan guidelines.

One of the key recommendations of the Sector Plan is to "[c]reate Germantown as a strategic location for employment in the County. Highway access and an eventual connection to a transit network will make Germantown accessible and attractive to employers." (SP p.45).



- The proposed mixed use Project Plan will contribute to these recommendations by helping transform this undeveloped area through a mix of uses that will support future employment uses nearby.
- The Martens development will also significantly improve the roadway infrastructure in this West End area near the MARC Station and adjacent to the future Commercial, mixed use (primarily commercial) land use designation for the Waters Road Triangle properties.

The Sector Plan places an emphasis on transit oriented, employment, and mixed use development in the Study Area (SP p.8-10, and p.44-45). Specifically, the Plan's vision includes the following:

- Germantown (as) the center of business and community life in upper Montgomery County (SP p.8); and
- (An) increase (in) employment (SP p.9)

Due to the Project Plan's emphasis on employment and during the initial review phases of the Application, Staff recommended and discussed with the Applicant the potential for an increase in the employment portion of the proposed land use mix. The Applicant analyzed the development mix for the Martens site and included convincing documentation related to the specific mix of uses proposed, including opinions from two real estate firms specializing in office and retail development. This information asserts the following:

- "[T]here appears to be no economic basis that any office space development would be economically feasible" for the Property, and
- The Applicant should be strongly discouraged from providing any additional retail footage above the (approx.) 14,000 sq. ft. originally proposed.

The Applicant has increased the proposed retail area from 13,984 sq. ft. to 14,486 sq. ft.

The Planning Board has determined that the land use mix proposed is consistent with the following Sector Plan recommendations regarding employment and mixed uses:

- Balance development with infrastructure capacity (SP p.10), and
- (Create) a transit centered community (SP p.44).

#### Sector Plan Density and Zoning Provisions

County Council Resolution No. 16-1126 approving the Sector Plan (SP p.102 and p.18 of Resolution) and the supporting land use provisions within the Urban Form sections of the Sector Plan (SP p.53) establish development density provisions for the Martens Property (TC-22) (TC-33) with the following text addressing both the Martens and adjacent Waters Road (TC-23) (TC-34) land areas:

- Redevelop the Martens and the Waters Rd. properties with a maximum of 420,000 sq. ft. of employment and retail and 400 dwelling units;
- Density distributed to permit up to 200,000 sq. ft. of commercial uses and 300 units on the Martens property and up to 220,000 sq. ft. of commercial uses and 100 units on Waters Rd. Triangle properties;
- The residential component may be increased with an offsetting decrease in commercial density so that the maximum density does not exceed 0.8 FAR;
- The Martens property should retain its RMX-2 zoning, while the Water Rd. Triangle properties should be rezoned to RMX-2C to ensure that existing businesses are conforming uses.

The Project Plan for Martens includes:

- 26.48 acres;
- 834,207 sq. ft. including residential and clubhouse uses
  - 828,707 sq. ft. of residential
  - 5,500 sq. ft. clubhouse
- 14, 486 sq. ft. of commercial uses on the first floor of two mixed use multi-family buildings
- A total of 848,693 sq. ft. for residential and commercial development

The resulting density for the total project is 0.74 FAR and is within the total 0.8 FAR allowance for the Property as established in the Sector Plan. The allowable 0.8 FAR provision of the Sector Plan (SP p.53) establishes flexibility to increase the specified residential unit totals for both of the designated Martens and Waters Road properties.

- The proposed residential FAR and density increase allowance is consistent with the Residential, mixed use (primarily residential) Land use category designated for the Property in the Sector Plan's Land Use and Town Center/ West End Land Use plans (MP p.44-45).
- The Application meets the offsetting provision for commercial uses in the Sector Plan, although additional commercial density on the Martens property would have been preferred. The proposed commercial area is significantly less than both the 200,000 sq. ft. referenced in the Sector Plan and the allowable 0.5 FAR of commercial use allowed in the RMX-2 zoning category for the Property. The 0.5 commercial FAR maximum for RMX-2 would allow 576,734 sq. ft. of commercial uses for the 26.84 ac. Martens site.

Germantown Sector Plan Urban Form recommendations and June 2010  
Germantown Urban Design Guidelines

Primary form and access Sector Plan exhibits applicable to the Martens property are included in the "Street Character, Roadway Network, West End Land Use, and Town Center Urban Form" sections of the Sector Plan, and in the Buildings diagram within the Design Guidelines.

These referenced Sector Plan exhibits include roadway access location and land use diagrams for the Martens property:

- Coordination involving the Applicant, M-NCPPC Staff, MCDOT staff, and owners of the southern section of the adjacent Waters Road triangle properties has resulted in agreements that will allow roadway plans for these adjacent properties to develop consistent with the Sector Plan locations and guidelines.

*Design Guidelines / Buildings Form Diagram (SP Design Guidelines, p.31)*

The following guidelines from this exhibit are described together with responses of how the Project Plan meets the guidelines:

"Building setbacks should be primarily 20 to 25 feet along most streets, 30 to 35 feet along MD 118, and 15 to 20 feet along streets with right of way of 100 feet (or) less"

- The Project Plan conforms to the Guidelines for building setbacks of 20-25 feet along most streets as measured from the curb. On Waters Road, which has a right of way of less than 100 feet, the building setbacks will be a minimum of 20 feet as measured from the curb.

"Maximum building heights should be located around the transit station, stepping down toward the edges of the district."

- The taller multifamily buildings are located along Waters Road and are a maximum of 60 ft. high. The townhouses located to the west of the multifamily buildings step down in building heights and will be a maximum of 45 ft. high.

Building heights of up to 60 feet at the subject site.

- No building will exceed 60 feet in height.

Streetscape pedestrian promenades continuous along the access roadways between the streets and the adjacent street frontage of the building forms

- The Project Plan, with buildings fronting the streets, meets this guideline.

**(c) Because of its location size, intensity, design, operational characteristics and staging, the proposed development is compatible with and not detrimental to existing or potential development in the general neighborhood.**

The site is located on the west end of the Germantown Town Center area abutting the CSX tracks and within a ½ mile radius of the MARC Station. The proposed mixed-use development includes four multi-family buildings with a combined total of 286 dwelling units and 170 townhouses. The 14,486 square feet of commercial uses are distributed in the ground floor of Buildings 1 and 3. Overall, this development proposes a 0.74 FAR. The residential density proposed at 17.2 du/ac is comparable to the residential density at Fairfield of Germantown at 16.8 du/ac. The location, size and intensity are compatible with existing and potential development in the general neighborhood.

The project is oriented along a principal east-west axis – Waterford Hills Boulevard – providing a connection between Father Hurley Boulevard and Waters Road. Several north/south internal connections complete the grid network of streets around which the residential units are proposed. The grid network facilitates vehicular and pedestrian movement through and within the project and the general neighborhood.

Buildings along the central boulevard provide a strong street edge and are oriented towards the street with rear-loaded garages. Buildings along the north/south internal connector streets are mostly front loaded with rear yards and green space in the rear. The 4-story multi-family buildings with a maximum height of 60 feet are oriented to Waters Road as recommended in the Sector Plan. The design, orientation, and intensity of uses provide a desirable and compatible transition between the existing residential development to the west and the more commercial uses to the east of Waters Road and along MD 118.

Compatibility with the CSX tracks and mitigation of the effects caused by this proximity is achieved through the design and locations of the various buildings and amenities on site. The SWM pond is proposed to be moved to the southeast corner of the site abutting the tracks, which effectively increases the separation between the townhouses (north of the pond) and the tracks. Noise mitigation measures will be implemented to buffer noise from the townhouse buildings at the far south of the project. A parking structure is proposed against the CSX tracks to help buffer noise for the multi-family buildings.

The operational characteristics are compatible with, if not improved, for the existing residential community at Fairfield at Germantown. Waterford Hills Boulevard will be extended through the Subject Property and connect to Waters Road. This will provide more direct access to MD 118 (via Wisteria Drive). The development will also provide a sidewalk/path system to the MARC Station. This development will add

more residential at the edges of the town center which will enhance the viability of nearby retail, restaurant, and service-oriented businesses.

The staging of the project will be compatible with and not detrimental to existing or potential development in the general neighborhood. The project will be developed in five phases, which will be defined in greater detail at the time of site plan. Conceptually, the projected phases are as follows:

- Phase I: Pre-construction activities and road infrastructure, including:
  - Removal of contaminated soils from the Property;
  - Relocation of the existing stormwater management pond;
  - Relocation of existing utilities;
  - Construction of Waterford Hills Boulevard extension through the Property;
  - Widening and construction of Waters Road between Wisteria Drive and Waterford Hills Boulevard.
- Phase II: Construction of Buildings 1-3 (multi-family residential) and their associated parking
- Phase III: Construction of townhouses located in the southwestern portion of the Property and associated parking
- Phase IV: Construction of Building 4 (multi-family residential) and its associated parking
- Phase V: Construction of the remainder of the townhouses located in the northeastern portion of the Property and associated parking

**(d) The proposed development does not overburden existing public services nor those programmed for availability concurrently with each stage of construction and, if located within a transportation management district designated under Chapter 42A, article II, is subject to a traffic mitigation agreement that meets the requirements of that article.**

The Project Plan will not overburden existing public facilities and services nor those programmed for availability concurrently with each stage of construction. The proposed staging program provides a timely provision of services. The Project Plan satisfies the LATR/PAMR requirements of the Adequate Public Facilities (APF) review. The Property is not located within a transportation management district.

#### Local Area Transportation Review (LATR)

Ten intersections, identified as critical intersections affected by the proposed development, were examined in the traffic study to determine whether they meet the applicable congestion standards for this area. The congestion standards in the Germantown West and Germantown Town Center Policy Areas are 1,425 and 1,600 Critical Lane Volumes (CLV), respectively. The traffic analysis indicated that all examined intersections in the study area are currently operating at acceptable CLV

standards during the weekday morning and afternoon peak hours and will continue to operate satisfactorily with the proposed development. Therefore, the Application meets the LATR requirements of the APF review. The result of the CLV analysis is summarized in Table 1.

Table 1: Calculated Critical Lane Volume Values at Studied Intersections

Intersections Analyzed	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Father Hurley Blvd/ Middelbrook Rd	812	977	1318	1276	1329	1291
Father Hurley Blvd/ Wisteria Dr	833	789	864	1086	856	814
Father Hurley Blvd/ Dawson Farm Rd	452	537	459	612	462	614
Father Hurley Blvd/ Hopkins Rd	330	427	548	741	549	743
MD 118/ Father Hurley Blvd Extension	N/A	N/A	545	777	551	784
MD 118/ Dawson Farm Rd	779	844	665	696	668	704
MD 118/ Wisteria Dr	911	1312	717	952	804	1074
MD 118/ Middlebrook Rd	969	1210	953	1247	1025	1316
MD 119/ Wisteria Dr	641	966	713	973	715	984
Waters Rd/ Wisteria Dr	463	468	293	360	595	663

Policy Area Mobility Review (PAMR)

A PAMR study is not required for the project because the project is located in the Germantown Town Center Policy Area, which does not require trip mitigation according to the current Growth Policy.

Adequacy of rights-of-way

The Applicant proposes a reduction of rights-of-way for Waterford Hill Boulevard from 112 to 104 feet and for Waters Road from 80 to 70 feet. The Applicant submitted a technical analysis justifying the proposed right-of-way reduction. Based on the technical analysis, even with the proposed right-of-way reduction on both Waterford Hills Boulevard and Waters Road, the roads would continue to provide adequate levels of service and traffic operation with the full development of the Martens property and buildout of the Sector Plan roadways. The right-of-way for

Waters Road in the Germantown Sector Plan is 70 feet according to the referred cross-section of the Sector Plan's right-of-way table. Therefore, the Planning Board conceptually supports the proposed reduction of the rights-of-way for Waterford Hills Boulevard and Waters Road with the final cross-section and right-of-way dimensions to be finalized in coordination with MCDOT using the new Context Sensitive Design standards at the time of preliminary plan approval.

Pedestrian and vehicular circulation

The road network within the project and in the area surrounding the Property will be adequate to meet the traffic generated by the Project Plan. The proposed access points on Father Hurley Boulevard and Waters Road are adequate to accommodate the site-generated traffic. The proposed vehicular and pedestrian circulation systems are adequate, safe and efficient.

Other Public Facilities and Services

There is adequate public water and sewer capacity to serve the project. The Project Plan has been reviewed by the Montgomery County Fire and Rescue Service who have preliminarily determined that the Property has appropriate access for fire and rescue vehicles, subject to further refinement at the time of preliminary plan and site plan approvals.

The Subject Property is located in the Northwest School Cluster, which currently has adequate school capacity at the high school level. Although the Northwest School Cluster has inadequate school capacity at the elementary and middle school levels, the Northwest School Cluster permits new residential development subject to a school facility payment, which the Applicant is willing to provide. The Annual School Test effective July 1, 2011 indicates that the Northwest Cluster will have inadequate school capacity at the elementary and high school levels. Thus after July 1, 2011, a School Facility Payment is required for residential development at the elementary and high school levels. A future preliminary plan application seeking Planning Board approval after July 1, 2011 will be subject to the Annual School Test results effective for FY12, as noted above.

**(e) The proposed development is more efficient and desirable than could be accomplished by the use of the standard method of development.**

The proposal to develop under the optional method of development is more efficient and desirable than the standard method of development. The standard method for RMX-2 zones must comply with the standards and requirements of the R-200 zone. The standard method yields lower density, greater setbacks, larger lots, no public amenities or open space, and a single-family housing type, all in stark contrast to the recommendations of the Sector Plan. The average density for R-200 is no more than 2.0 du/ac versus the density recommended in the Sector Plan. A density of 2.0 du/ac

is insufficient to reach the critical mass and density envisioned for the west end of the Town Center and areas within ½ mile radius of the MARC Station. The Project Plan proposes residential development at more than 17 du/ac.

Additionally, under the standard method of development the requirement for public facilities and amenities would be removed. The Project Plan is providing several public facilities and amenities divided into three main areas: (1) the Green Commons with a tot lot, open play area II, and seating areas; (2) the southeast amenity area, which is enclosed by the multi-family buildings, and includes a clubhouse with an indoor exercise room and an indoor community space, a swimming pool, a wading pool, a tot lot, open play area II, and seating areas; and (3) the southwest amenity area, which surrounds a SWM dry pond and includes a dog park, seating areas, and a pedestrian path. In addition, the Applicant has also proffered to reconstruct Waters Road with 31-foot wide pavement, curb and gutter, and street trees within the existing 51-foot right-of-way. Alternatively if the full 70-foot right-of-way becomes available, Waters Road will be reconstructed with 38-foot wide pavement, curb and gutter, and street trees on both sides. Overall, these public facilities and amenities will support the mixture of uses at the increased densities proposed. Given the recommendations of the Sector Plan and the site's proximity to transit, employment and services, the optional method of development is much more desirable and efficient for this particular site.

**(f) The proposed development includes moderately priced dwelling units in accordance with Chapter 25A of this Code.**

The Project Plan provides 12.5% of the total density as moderately priced dwelling units (MPDUs) onsite, consistent with the requirements of Chapter 25A. A final agreement between the Applicant and the Department of Housing and Community Affairs will be required at the time of site plan review.

The original project plan approved 15% of the base density as MPDUs onsite. This allowed a 22% density bonus above the base density of 500 dwelling units for the site as established by the 1989 Germantown Master Plan. Thus, the original project plan approved 610 dwellings units including 92 MPDUs. Phase I of the project plan was built according to Site Plan No. 82003003B, which limited the residential density to 604 dwelling units including 91 MPDUs (or 15%). The MPDU requirement of the original approval was fulfilled by having 15% MPDUs consistently applied to Phase I. The current Application for Phase II is consistent with the density cap in the 2009 Sector Plan for the Germantown Employment Area. The Application does not request a density bonus and therefore is not required to provide MPDUs beyond the 12.5% requirement of Chapter 25A.



- (g) When a Project Plan includes more than one lot under common ownership, or is a single lot containing two or more CBD zones, and is shown to transfer public open space or development density from one lot to another or transfer densities, within a lot with two or more CBD zones, pursuant to the special standards of either section 59-C 6.2351 or 59-C 6.2352 (whichever is applicable), the Project Plan may be approved by the Planning Board.**

The Application does not propose any transfers of public open space or development density from one lot to another.

- (h) The proposed development satisfies any applicable requirements for forest conservation under Chapter 22A.**

As conditioned, the Project Plan satisfies the applicable requirements for forest conservation under Chapter 22A. The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420111000 for the 26.48-acre site (Phase II) was approved on January 25, 2011. The proposed Forest Conservation Plan (FCP) does not propose to clear, retain, or afforest any area on-site. The forest conservation worksheet generates a 2.37-acre afforestation requirement. As conditioned, the afforestation requirement should be met by using either on-site or off-site methods rather than through fee-in-lieu. In addition, the Planning Board recommends that the 0.34 acres of Stream Valley Buffer ("SVB") on site should not be placed into a Category I conservation easement. This small and isolated section of SVB will not provide any additional protection to the stream since the stream is on the opposite side of the CSX railroad tracks.

#### Forest Conservation Variance

Section 22A-12(b)(3) of the County Code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection. This section of the code requires those areas to be left in an undisturbed condition unless the Applicant obtains a variance in accordance with Chapter 22A-21 of the County Code. The law prohibits impact to and requires the retention and protection to the greatest extent possible of all trees that measure 30 inches diameter at DBH or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; and rare, threatened and endangered species.

Under Chapter 22A-21 of the County Code a person may request in writing a variance from this Chapter if the person demonstrates that enforcement would result in unwarranted hardship to the person. The Applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

Because this project will require impact to one tree and the removal of five trees 30 inches and greater DBH, the Applicant must obtain a variance. The Applicant is providing some tree preservation measures to help ensure that the impacted tree will survive construction.

#### County Arborist's Recommendation

In accordance with Montgomery County Code, Section 22A-21(c), the Planning Department referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The request was forwarded to the County Arborist on April 25, 2011. On May 7, 2011, the County Arborist issued her recommendations on the variance request. The County Arborist's recommendation for the variance request was favorable, but included a recommendation for mitigation of the impacts.

#### Unwarranted Hardship Basis

The residential and commercial development proposed on this Property is a permitted use in the RMX-2 zone and recommended by the Sector Plan. Previously, the Board approved a forest conservation plan for this site with development encompassing the entire site. While the approved plan for this portion of the site expired, the development pattern proposed was always envisioned. Protecting the trees subject to the variance provision, by either not allowing impacts or removal, would cause major changes to the proposed plan and would be detrimental to the overall development of the multi-family units and commercial area within ¼ mile of the MARC Station.

#### Variance Findings

The Planning Board must make findings that the Applicant has met all requirements of Chapter 22A-21 before granting the variance. The Planning Board has made the following determination on the required findings:

1. *Will not confer on the Applicant a special privilege that would be denied to other applicants;*

Granting the variance will not confer a special privilege on the Applicant as the disturbance and removal of the specimen trees noted above are the minimum necessary in order to develop the Property as illustrated on the Project Plan.

2. *Is not based on conditions or circumstances which are the result of the actions by the Applicant;*

The requested variance is not based on conditions or circumstances which are the result of actions of the Applicant. The variance is based on the topography of the site and the proposed density as recommended in the Sector Plan, and only impacted and/or removed as much as necessary to achieve the goals for the site.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property;*

The requested variance is a result of the proposed development and not a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being disturbed and/or removed are not within a stream buffer, wetland, or a special protection area. The Applicant proposes to use sediment and erosion control methods as part of a Stormwater Management Concept Plan, which has been submitted to and is under review by the Montgomery County Department of Permitting Services.

#### Forest Conservation Variance mitigation

Although there will be some disturbance within the critical root zone (CRZ) of Tree 9 on-site, this tree is a good candidate for safe retention. Therefore, this tree should be retained. Trees 5 and 10 are in very poor condition and in declining health even if no development was proposed. For this reason, the Planning Board recommends removal of trees 5 and 10 with no mitigation. Trees 2, 3, and 4 are in fair to good health, not within existing forest, and are only being removed as a result of the development of the site. The development of this site will significantly alter the hydrology that presently supports the survival of these three trees. Because of the

change in hydrology and the limited potential for long term survival of these trees, the Planning Board recommends mitigation.

Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, the Planning Board recommends that replacement occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are 2" to 3" DBH. This means that for the 102 caliper inches of trees removed, the Applicant will mitigate with nine 3" DBH native canopy trees on the site. While these trees will not be as large as the trees lost, they will provide some immediate canopy and will help augment the canopy coverage and eventually fill in open areas of the forest where the large trees have been removed. All mitigation plantings should be specifically labeled and detailed on the revised Forest Conservation Plan.

**(i) The proposed development satisfies any applicable requirements for water quality resources protection under Chapter 19.**

The Applicant submitted a stormwater management concept for the Project to the Montgomery County Department of Permitting Services, Water Resources Section, on October 21, 2010, which is currently under review and will need to be approved prior to preliminary plan approval.

**(j) Any public use space or public facility or amenity to be provided off-site is consistent with the goals of the applicable Master or Sector Plan and serves the public interest better than providing the public use space or public facilities and amenities on-site.**

The Project Plan will significantly improve the proposed areas within the future right-of-way for Waters Road and Waterford Hills Boulevard. On Waterford Hills Road, the project will provide a landscaped median, closely spaced street trees, pedestrian oriented street lighting, and a wide sidewalk. On Waters Road, the Project Plan will also provide closely spaced street trees, pedestrian oriented street lighting, and a wide sidewalk on the west side and partial treatment of the east side depending on the available right-of-way. If the full right-of-way becomes available, full streetscaping will also be provided on the east side of Waters Road.

The proposed improvements to the public-of-way are consistent with the recommendations in the Germantown Sector Plan and the Design Guidelines. The landscape median, sidewalks, bikeway and the streetscaping are all recommended in the Germantown Sector Plan (pages 32, 33, 36 and 38).

The enhanced landscaping in the median along Waterford Hills Road, and the streetscaping along both sides of Waterford Hills Road and Waters Road are public facilities and amenities in addition to the minimum requirements in the Road Code. These improvements will be included in a maintenance agreement with Montgomery County.

The improvements within the public-right of way are necessary to provide access to the existing MARC Rail Station and the commercial area of the Germantown Town Center. They also significantly enhance pedestrian connections between dwelling units within the project and improve the character of the Germantown area. These improvements will foster the creation of a pedestrian oriented environment in the public interest for the Germantown area.

BE IT FURTHER RESOLVED that all elements of the plans for Project Plan No. 92002002B, Martens Property stamped received by M-NCPPC on April 22, 2011 are required except as modified by the above conditions of approval; and

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

BE IT FURTHER RESOLVED that this Project Plan shall remain valid as provided in Montgomery County Code § 59-D-2.7; and

BE IT FURTHER RESOLVED that the date of this Resolution is SEP 19 2011 (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).

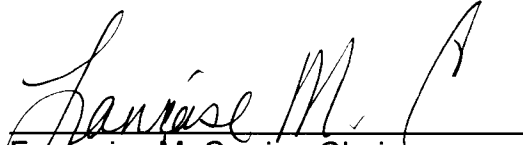
\* \* \* \* \*

### 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 Presley, seconded by Vice Chair

MCPB No. 11-53  
Project Plan No. 92002002B  
Martens Property  
Page 22

Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, September 8, 2011, in Silver Spring, Maryland.



Françoise M. Carrier, Chair  
Montgomery County Planning Board

## Appendix B



DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

November 14, 2011

Mr. Richard Weaver, Planner Coordinator  
Area 3 Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120110090  
Martens Property

Dear Mr. Weaver:

We have completed our review of the revised preliminary plan dated October 10, 2011. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on July 25, 2011. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

Design Exception Requests

- We have accepted the Vehicle Queuing Analysis prepared by Wells & Associates, Inc. for the proposed median break locations along Waterford Hills Boulevard. We support Planning Board approval of the applicant's proposed median break locations.
- We also believe their proposal to implement on-street parking during off-peak hours on Waterford Hills Boulevard will be feasible so long as parking restrictions are implemented to ensure achieving the required sight distances from the side street/driveway intersections. [NOTE: we reserve the right to remove on-street parking as necessary to achieve satisfactory multi-modal traffic operations and safety.]
- We support Planning Board approval of the applicant's proposed modified typical sections for Waterford Hills Boulevard and Waters Road across the site frontages.

**Division of Traffic Engineering and Operations**

---

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878  
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080  
trafficops@montgomerycountymd.gov



Stormwater Management Concept Plan

In general, we support installation of the proposed stormwater management concept plan (to provide trapezoidal ditches/bio-swales along Waterford Hills Boulevard and Filterterra structures along Waters Road), subject to the following comments (*we note the applicant's consultant addressed these comments in their September 13, 2011 response*):

- Since Executive Regulation No. 31-08AM (“Context Sensitive Road Design Standards”) allows the centerline of full-sized street trees to be located 3 feet (or even 2 feet – in the case of reconstructed roads) from a vertical curb face for target speeds of 35 mph or less while requiring the installation of vegetated integrated management practices within the right-of-way, we support the concept of providing bio-swales along the proposed County roads.
- The proposed SWM design should be approved on a Pilot Basis; the details may need to be modified on future projects to improve performance and facilitate low-cost maintenance.
- Instead of providing slotted curb openings to drain the curblines to the bio-swales, the applicant should construct curb opening inlets which incorporate paved flumes between the edge of pavement and trapezoidal ditch (MSHA Standard MD 374.68 modified for 6” curb per MSHA Standard MD 375.55-01. The inlet/shelf width, per the comment above, should be a minimum of 2’8” to allow space for passengers to enter and exit parked cars. These inlets should be sized and located to handle the one (1) year storm event runoff.
- We recommend enclosed storm drain systems be located behind the curb – preferably at a shallow depth underneath the bio-swale systems to limit future repair costs and minimize right-of-way impacts. Enclosed storm drain systems should be designed and located to handle the 10 year storm event in accordance with the MCDOT Storm Drain Criteria.
- Provide spread computations for the 10 year post-development runoff for the proposed enclosed storm drain system, at the permit stage for approval by DPS/RWPR. Provide spread calculations and inlet efficiency calculations to size and locate the proposed curb opening inlets, for approval by DPS/RWPR.
- The location of the proposed trapezoidal ditch (with respect to the face of curb) will necessitate locating standard width curb opening inlets and traffic control signage within those ditches.
- If on-street parking is allowed along Waterford Hills Boulevard, trapezoidal ditches and bio-swales should include opportunity for pedestrians to cross them (between parked cars and the sidewalks). These path locations should be selectively located to minimize mid-block pedestrian crossings of the adjacent streets.
- Street tree species and spacing should be considered in the design of the bio-swales.

- At this time, we do not support providing stormwater management facilities within the median for Waterford Hills Boulevard. Any proposal to modify the typical section for that road (to provide stormwater management within the median) will require a Design Exception package for MCDOT approval; this package will need to satisfactorily demonstrate how the median will drain under large storm events and how it will affect traffic operations.
- The proposed Filterra structures should be located no closer than 10 feet from the curb opening inlets for the enclosed storm drain system.

#### General Plan Review and Permitting Comments

1. The previous comments contained in our March 5, 2011 letter for the Project Plan remain applicable unless modified below.
2. Necessary dedication for the widening of Waters Road in accordance with the proposed modified typical section (seventy foot wide ultimate right-of-way).
3. Full width dedication of Waterford Hills Boulevard in accordance with the proposed modified typical section (one hundred ten foot wide right-of-way). At such time as private party(s) are ready to construct the connection of Waters Road to Germantown Road (MD 118), full width dedication will be necessary to implement that improvement.
4. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
5. Grade establishments for all new public streets and/or pedestrian paths must be approved prior to submission of the record plat.
6. Size storm drain easement(s) prior to record plat. No fences will be allowed within the storm drain easement(s) without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
7. The sight distances evaluation certification form shows acceptable visibility along Waters Road at the proposed intersections with Waterford Hills Boulevard and the multiple use parking lot. However, the form was not sealed – which is required. Prior to approval of the record plat by the Department of Permitting Services, submit a completed, executed and sealed Executive Branch Sight Distances Evaluation certification form, for the proposed intersection, for DPS' approval.
8. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.

The proposed private streets must be sufficiently wide to accommodate two-way vehicular traffic. Private streets should be designed to allow an SU-30 truck to circulate without crossing the centerline nor the curbline.

9. For safe simultaneous movement of vehicles, we recommend a driveway pavement width of no less than twenty four (24) feet to allow vehicles to enter and exit the site without encroaching on the opposing lanes. This pavement width will permit an inbound lane width of fourteen (14) feet and an exit lane width of ten (10) feet.
10. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of the largest vehicle expected to frequent the site.
11. Truck loading space requirements to be determined in accordance with the Executive Branch "Off-Street Loading Space" policy.
12. For any parking facility containing more than fifty (50) parking spaces, the applicant needs to furnish bicycle parking facilities as required Section 59 E-2.3 of the Montgomery County Code. Accordingly, the applicant should provide either bike lockers or inverted "U" type bike racks.
13. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
14. Access and improvements along Germantown Road (MD 118) as required by the Maryland State Highway Administration (MSHA).
15. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
16. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
17. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
18. Trees in the County rights of way – spacing and species to be in accordance with the applicable DOT standards. Tree planning within the public right of way must be coordinated with Brett Linkletter, the Chief of our Division of Highway Services, Tree Maintenance Section at (240) 777-7651.

19. The Traffic Signal Warrant Studies (for the intersections of Waters Road/Wisteria Drive and Waterford Hills Boulevard/Father Hurley Boulevard) have been forwarded to our Traffic Engineering Studies Section for review and analysis. A complimentary copy of the Traffic Signal Warrant Study for the Waters Road/Germantown Road (MD 118) intersection was also provided – though the review of this study will be lead by the Maryland State Highway Administration.

Prior to DPS approval of the first record plat for this subdivision, the applicant should contact Mr. Fred Lees, Chief of our Traffic Engineering Studies Section, to determine the status of our review (and decision – if completed) for the two signal warrant studies. The applicant will be responsible for constructing the traffic signal(s) – if they are found to be warranted. We concur with the recommendation to install those signals (if warranted) prior to release of the 350<sup>th</sup> building permit.

On another signal-related matter, we have concluded this applicant will not be required to reimburse the County for the costs to install the existing traffic signal at Father Hurley Boulevard and Wisteria Drive.

20. We have reviewed the four alternative plans submitted to connect Waters Road with Germantown Road (MD 119) opposite the Germantown Road (MD 119)/Bowman Mill Road intersection. For the ultimate horizontal alignment of Waters Road, we favor a curvilinear alignment – which reinforces the through movement on Waters Road – over a “T” intersection design. (We could accept a “T” intersection design as an interim solution – to be replaced with a curvilinear alignment when the abutting private property redevelops.)

Of the options that have been submitted for our consideration, we prefer Option “1” but could accept Option “4” – conditioned on a Planning Board approval of a waiver for the requirement in Section 50-26 (d) to provide a one hundred (100) foot tangent section between two reverse curves. We do not support reducing the centerline radius below one hundred fifty (150) feet. We are willing to reconsider this recommendation upon receipt of an alternative alignment plan and supporting documentation.

21. In accordance with Section 50-35(n) of the Montgomery County Code, we recommend the Montgomery County Planning Board require the applicant to construct off-site sidewalk along Waters Road to connect with the existing sidewalks on Wisteria Drive and Germantown Road (MD 118).
22. Since our review of the original preliminary plan, the number of on-site parking spaces has been reduced. We believe this is a step in the right direction but also support further parking reductions to encourage multi-modal operations and promote a transit-oriented, mixed use development. To better achieve those goals, we recommend:
- Reducing the residential parking spaces to the minimum required
  - Consider providing shared parking spaces where appropriate
  - Ensure there is no requirement to pay for a give number of spaces when renting or buying a unit (i.e., unbundled parking from rentals/sales)

- Provide car sharing spaces – we recommend providing at least two (2) spaces for each multi-family residential building and at least two (2) additional ones in the townhouse parking areas
  - Provide space for a bikesharing station with at least four (4) hours of sunlight per day
  - Provide electric car charging stations in the parking facilities (appropriate number to be determined).
23. At or before the permit stage, please coordinate with Ms. Stacy Coletta of our Division of Transit Services to coordinate the project with RideOn requirements and the opportunity to extend bus service along Waterford Hills Boulevard and Waters Road. Ms. Coletta may be contacted at 240 777-5836.
24. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
- A. Street grading, paving, curbs and gutters, six (6) foot wide concrete sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along Waterford Hills Boulevard site frontage (a divided business district road) in accordance with the proposed modified standard (MC-217.02) for a divided arterial road.
  - B. Across the Waters Road site frontage, widen the existing pavement to nineteen (19) feet from centerline and construct curbs and gutter, seven (7) foot wide concrete sidewalk and handicap ramps, and storm drainage and appurtenances. Provide curb extensions [bumpouts] at the intersection with Waterford Hills Boulevard and the approach to the intersection with Wisteria Drive. Remove the existing culvert under Waters Road and provide proper (enclosed system) outfall for same through the site.
- \* **NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.**
- C. On Waters Road, construct five (5) foot wide concrete sidewalk with handicap ramps between the northern property line and Wisteria Drive, if required as an off-site amenity by the Montgomery County Planning Board.
  - D. Upgrade the current cul-de-sac on Waters Road (to accommodate emergency vehicle movements) with a pedestrian connection to Germantown Road (MD 118) if required by the Planning Board.

At such time as private party(s) are ready to construct the connection of Waters Road to Germantown Road (MD 118), construct that extension using a modified typical section [locate the pavement crown at thirty five feet from the south/west right-of-way line and provide a six foot wide buffer panel by reducing the width of the maintenance strip to one foot \*].

Mr. Richard Weaver  
Preliminary Plan No. 120110090  
November 14, 2011  
Page 7

\* NOTE: if the sidewalk on the north/east side of the connector road will be directly adjacent to the proposed retaining wall, then that sidewalk should be at least six (6) feet wide (preferably seven). It may be necessary to reduce the width of the north/east buffer panel (and eliminate street trees) to accommodate the sidewalk and retaining wall until additional right-of-way becomes available.

- E. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
- F. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- G. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- H. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- I. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at [greg.leck@montgomerycountymd.gov](mailto:greg.leck@montgomerycountymd.gov) or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager  
Development Review Team

m:/subd/initials/gml/docs/PP/120110090, Martens Property,, FINAL.doc

Enclosure

cc: Charlie Turner; Buchanan Acquisitions, LLC  
Vernon E. Martens  
Robert Brewer, Jr.; Lerch, Early & Brewer  
Phil Isaja; Loiederman Soltesz Associates  
Michael Workosky; Wells & Associates  
John Carter; M-NCPPC Area 3  
Sandra Pereira; M-NCPPC Area 3  
Ki Kim; M-NCPPC Area 3

Mr. Richard Weaver  
Preliminary Plan No. 120110090  
November 14, 2011  
Page 8

Ray Burns; MSHA AMD  
Scott Newill; MSHA AMD  
Morton S. Taubman  
Mark Wildman  
Preliminary Plan Folder  
Preliminary Plan Letters Notebook

cc-e: Marie LaBaw; MCFRS  
Rick Brush; MCDPS WRM  
Bill Campbell; MCDPS WRM  
Sam Farhadi; MCDPS RWPR  
Sandra Brecher; MCDOT DTS  
Beth Dennard; MCDOT DTS  
Stacy Coletta; MCDOT DTS  
Michael Mitchell; MCDOT DTE  
Brett Linkletter; MCDOT DHM  
Fred Lees; MCDOT DTEO  
Mark Terry; MCDOT DTEO



Martin O'Malley, *Governor*  
Anthony G. Brown, *Lt. Governor*

Beverley K. Swaim-Staley, *Secretary*  
Darrell B. Mobley, *Acting Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

November 2, 2011

Re: Montgomery County  
MD 118  
**Martens Property**  
**SHA Tracking No. 11APMO007**  
MD 118 Mile Point 5.07

Ms. Sandra Pereira  
Area # 3  
Maryland National Capital Park  
and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Dear Ms. Pereira:

Thank you for the opportunity to review the Traffic Analysis Memorandum Report prepared by Wells & Associates, Inc., dated September 1, 2011 and the Concept Plans prepared by Loiderman Soltesz Associates, Inc., dated August 2011 for the proposed Waters Road Connection to MD 118 (received by the SHA on October 6, 2011) that was prepared for the Martens Property mixed-use development in Montgomery County, Maryland (Preliminary Plan No. 120110090 and Site Plan No. 820110130). The major report findings and the Maryland State Highway Administration (SHA) comments and conclusions are as follows:

- The traffic report indicates that a separate Traffic Signal Warrant Analysis (TSWA) will be prepared. The Traffic Signal Warrant Study should include a Synchro analysis to indicate the interactions from a capacity, traffic queuing, and traffic flow perspective along MD 118 with a new traffic signal at Waters Road/Bowman Mill Road. Both existing upstream and downstream traffic signals should be included in the Synchro analysis.
- On page 3 of Traffic Analysis Memorandum Report, both a southbound MD 118 right turn lane and an extension of the northbound MD 118 left turn lane were recommended in the report at the MD 118 at Waters Road/Bowman Mill Road intersection. However, the Concept Plans prepared by Loiderman Soltesz Associates, Inc. failed to show either of these recommendations. In addition, all of the Concepts Plans should clearly show dimensions of all storage lane lengths, tapers and pavement width changes.

My telephone number/toll-free number is \_\_\_\_\_  
*Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free*



Ms. Sandra Pereira

Page 2 of 3

- On page 3 of Traffic Analysis Memorandum Report, it states that separate left and right turn lanes would be provided along westbound Waters Road for the T-Intersection Alignment Option. However, the Concept Plans prepared by Loiderman Soltesz Associates, Inc., only indicate a single westbound Waters Road lane. The memo page 3 should be revised to reflect 1 westbound lane.
- A southbound MD 118 right turn lane was proposed at the temporary right-in/right-out alignment option. This right turn lane should be extended as far as possible to minimize disruptions to MD 118 through traffic.

The TSWA, Synchro and revised Waters Road connection plans requested by SHA in the above comments must be addressed on the next submission to SHA and/or when a request for an access permit is made to SHA in the future, whether by the developer/applicant of the Martens Property or other property owners.

Based on the Waters Road connection concept plans by LSA dated 9/26/11 and traffic evaluation memorandum by Wells & Associates dated 9/01/11, SHA concurs with the right-in/right-out option as an interim condition only providing that a deceleration/right-turn lane is constructed along with the temporary entrance. SHA has no preference between the curved Waters Road alignment and the "T" intersection Waters Road alignment providing that the above comments regarding TSWA and Synchro are addressed and that the necessary resulting MD 118 improvements are constructed. Both Waters Road alignment options connect with MD 118 across from Bowman Mill Road. The requirements for pedestrian and cyclists accommodation will be determined after the TSWA and Synchro are submitted to SHA.

The SHA also received the revised Preliminary Plans (File # 120110090) and revised Site Plans (File # 820110130). The SHA has **no objection** to these revised Preliminary Plans and revised Site Plans for the proposed Martens Property development.

Unless specifically indicated in SHA's response, the comments contained herewith do not supersede previous comments made on this development application. If you have any questions or comments regarding the enclosed traffic comments, please contact Larry Green at (410) 995-0090 x20. Please contact Mr. Raymond Burns at 410-545-5592 with any questions regarding the Waters Road alignment comments.

Sincerely,



for  
Steven D. Foster, Chief  
Access Management Division

SDF/lg/rbb

Ms. Sandra Pereira

Page 3 of 3

cc: Mr. Raymond Burns, SHA AMD  
Mr. John Carter, M-NCPPC, Area #3  
Ms. Mary Deitz, SHA, RIPD  
Mr. Larry Green, Daniel Consultants, Inc.  
Ms. Lori Hirz, Loiederman Soltesz & Associates  
Mr. Ki Kim, M-NCPPC Montgomery County  
Mr. Greg Leck, MCDOT  
Mr. Vaughn Lewis, SHA, RIPD  
Ms. L'Kiesha Markley, SHA, RIPD  
Mr. Johnson Owusu Amoako, SHA Office of Traffic & Safety  
Mr. Morteza Tadayon, SHA Travel Forecasting Division  
Mr. Errol Stoute, SHA Traffic Development & Support Division  
Mr. Cedric Ward, SHA District 3 Office  
Mr. Michael Workosky, Wells & Associates, Inc.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Carla Reid  
Director

October 12, 2011

Ms. Lori Hirz  
Loiederman Soltesz Associates  
2 Research Place  
Rockville, MD 20850

Re: Stormwater Management **CONCEPT** Request  
for Martens Property  
Preliminary Plan #: 1-02068  
SM File #: 239006  
Tract Size/Zone: 26.47 acres/RMX-2  
Total Concept Area: 25.26 acres  
Lots/Block: NA  
Parcel(s): P780  
Watershed: Little Seneca Creek

Dear Ms. Hirz:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of Environmental Site Design for one inch of the required volume including microbiofilters, bioswales and porous paving. The existing dry stormwater pond will be used for the remaining volume that cannot be provided in the ESD facilities. Filterrass and a volume based Stormfilter will be used for the Waters Road improvements

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. The landscaping shown on the approved Landscape Plan (as part of the approved Site Plan) is for illustrative purposes only. It may be changed at the time of detailed review of the Sediment Control/Storm Water Management plans by the Department of Permitting Services, Water Resources Section.
6. The storm drain system design must include the existing culvert under Waters Road.
7. The design for the existing pond relocation is shown for illustrative purposes only and may change during the detailed review.
8. The relocation of the existing pond must be done prior to any other site work.

9. The review and approval of the design of the relocated existing pond will be done by MDE since this is classified as a High Hazard dam. Montgomery County DPS will review the sediment control for the relocation.
10. No permanent or temporary structures may be located on the dam embankment without specific written approval from this Department.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Sincerely,



Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB: tla

cc: C. Conlon  
SM File # 239006

ESD Acres:	25.6
STRUCTURAL Acres:	25.6
WAIVED Acres:	0



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett  
County Executive

November 3, 2011

Richard Y. Nelson, Jr.  
Director

Ms. Keely D. Lauretti, RLA  
Loiderman Soltesz Associates Inc.  
2 Research Place, Suite 100  
Rockville, MD 20850

RE: Martens Property – Preliminary Plan No. 120110090 and  
Site Plan No. 820110130

Dear Ms. Lauretti:

The Department of Housing and Community Affairs (DHCA) has reviewed your responses to DHCA's DRC comments of July 22, 2011 concerning the above-referenced plans, and your revisions to the plans. Your responses and revisions are consistent with DHCA's comments. DHCA recommends Approval of these plans with the following addition to the note at the bottom of the Development Standards table, which will preserve flexibility in locating the multi-family MPDUs (see underlined language):

\*The project will comply with the applicable Montgomery County MPDU requirements. The affordable units will be proportionally distributed among the 1, 2, and 3 bedroom multi-family units and as shown on the plans for the townhouse units. The final locations of the multi-family MPDUs will be determined by agreement with DHCA.

The MPDU townhouse floor plans and elevations that you have provided are acceptable. As you move forward with design of the garden apartment units, please make sure to consult the MPDU Pricing Standards and Minimum Specifications for MPDUs on DHCA's website, and submit schematic MPDU floor plans for DHCA's review early enough to allow for incorporation of recommendations concerning unit livability.

If you have any questions, please contact me at 240-777-3786.

Sincerely,

Lisa S. Schwartz  
Senior Planning Specialist

cc: Sandra Pereira, M-NCPPC  
Christopher J. Anderson, DHCA  
Lawrence C. Cager, DHCA

S:\Files\FY2012\Housing\MPDU\Lisa Schwartz\Martens Property Letter 11-3-11.doc

Division of Housing and Code Enforcement

Code Enforcement FAX 240-777-3701	Moderately Priced Dwelling Unit FAX 240-777-3709	Housing Development and Loan Programs FAX 240-777-3691	Landlord/Tenant Affairs FAX 240-777-3691
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## FIRE MARSHAL COMMENTS

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**DATE:** 16-Nov-11  
**TO:** Keely Laretti  
Loiederman Soltesz Associates, Inc  
**FROM:** Marie LaBaw  
**RE:** Martens Property (Fairfield at Germantown)  
82003003A 92002002B 120110090 820110130

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### PLAN APPROVED

1. Review based only upon information contained on the plan submitted **16-Nov-11**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

## Pereira, Sandra

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**From:** Farhadi, Sam [Sam.Farhadi@montgomerycountymd.gov]  
**Sent:** Wednesday, November 09, 2011 7:34 AM  
**To:** Pereira, Sandra  
**Subject:** Marten Property Site Plan - DPS comments

Hi Sandra,

Here are DPS comments to be addressed at the certified site plan:

- Provide a standard MCDOT section for all public streets and clearly specify the modifications you are seeking;
- Recommend green strip along private roads sidewalks;
- Fix the handicap ramps as discussed in 11/1/11 meeting. At crossing streets they have to be perpendicular but can remain close to the intersection;
- Label the loading areas and quantity of the floors on the plans;
- Label the bicycle parking areas on the plans;
- Make parking lot access to the Waters Road perpendicular;
- Provide sidewalk on Waters Road south of the proposed access;
- Ensure handicap ramp connectivity;
- Show flow direction on storm drain pipes;
- Add bump-out detail and follow it on the plan;
- Obtain MCDOT decision on the Waters Road section;
- Provide a note on the plan for the swale crossings to distinguish them from mid block crossings;
- Recommend fixing the private roadway (alley B) sight distance issue;

Please let me know if you have any question.

Sam

## Pereira, Sandra

---

**From:** Demler, Scott [sDemler@wsscwater.com]  
**Sent:** Monday, October 17, 2011 7:57 AM  
**To:** Pereira, Sandra  
**Cc:** Keely Lauretti, RLA  
**Subject:** RE: Martens Property, timeline

Sandra,

In regard to the Martens Property Preliminary and Site Plans (#'s 120110090 and 820110130) please be advised that the applicant and engineer have adequately addressed WSSC's Development Review Committee comments from the meeting of July 25, 2011. All remaining WSSC-related items will be evaluated and resolved at the time of detailed engineering plan review. Our staff will soon be meeting with Loiederman Soltesz Associates and Buchanan Acquisitions to discuss several utility design refinements that will be incorporated during the final engineering. Please contact me immediately if you have any comments or questions. Thanks

*Scott W. Demler*  
*WSSC Development Services Group*  
*Phone (301) 206-8749*

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**From:** Pereira, Sandra [mailto:Sandra.Pereira@montgomeryplanning.org]  
**Sent:** Thursday, October 13, 2011 11:31 AM  
**To:** Leck, Gregory; Panjshiri, Atiq; Campbell, William; 'Beall, Mark'; LaBaw, Marie; achoudhary@sha.state.md.us; Raymond Burns (SHA); Demler, Scott; Schwartz, Lisa  
**Subject:** Martens Property, timeline

Hello Reviewers,

By now, you should have all received revised plans for the Martens Property (120110090 & 820110130). Both preliminary and site plans have been tentatively scheduled for the Planning Board on December 1<sup>st</sup>. As such, it would be great to get your comments and/or conditions of approval by November 3<sup>rd</sup>. Please let me know at your earliest convenience if this timeframe for review is not feasible for your agency.

Thanks in advance,  
Sandra

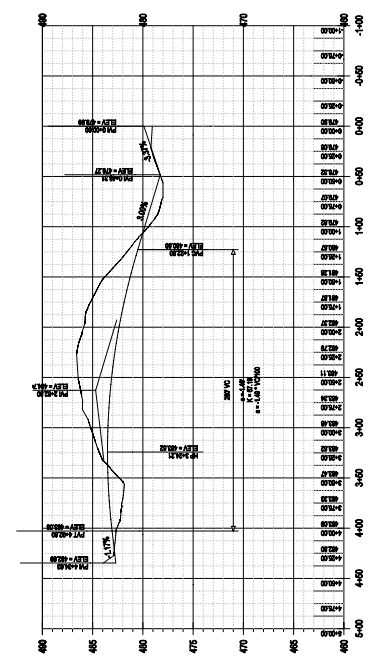
**Sandra Pereira, RLA**  
Area 3 Lead Reviewer

M-NCPPC Montgomery County Planning Department  
8787 Georgia Avenue, Silver Spring, MD 20910  
phone (301) 495-2186 :: fax (301) 495-1306  
[sandra.pereira@montgomeryplanning.org](mailto:sandra.pereira@montgomeryplanning.org)

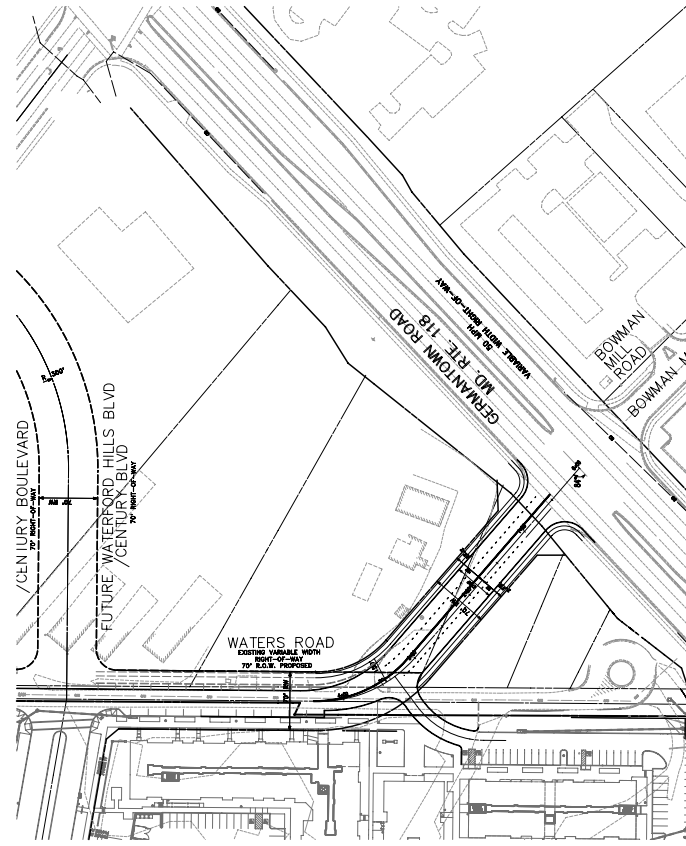


## Appendix C

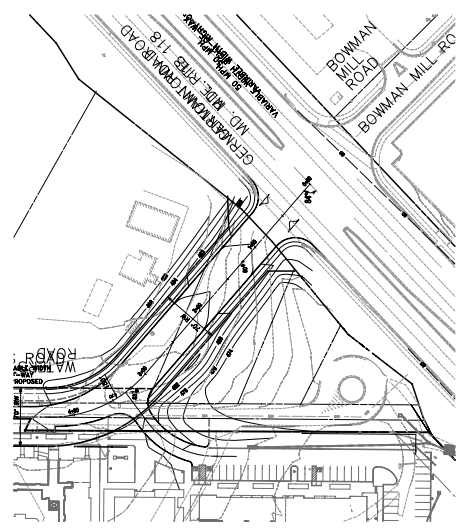
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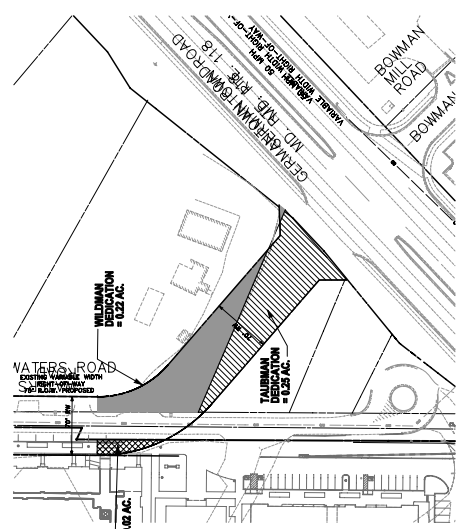
**VERTICAL PROFILE ULTIMATE THROUGH MOVEMENT ALIGNMENT**  
 SCALE: HORIZ. 1"=50'  
 VERT. 1"=5'



**PLAN VIEW FOR ULTIMATE THROUGH MOVEMENT ALIGNMENT**  
 SCALE: 1"=80'



**GRADING FOR ULTIMATE THROUGH MOVEMENT ALIGNMENT**  
 SCALE: 1"=80'



**RIGHT-OF-WAY REQUIREMENTS FOR ULTIMATE WATERS ROAD ALIGNMENT**  
 SCALE: 1"=80'

DATE: 09/26/2011



WATERS ROAD CONNECTION TO MD 118  
 ULTIMATE THROUGH MOVEMENT ALIGNMENT  
 PER MASTER PLAN, WITH 70' R.O.W.

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	09/26/11
2	ISSUED FOR PERMIT	09/26/11
3	ISSUED FOR PERMIT	09/26/11
4	ISSUED FOR PERMIT	09/26/11

**CLIENT**  
 BUCHANAN DEVELOPMENT  
 2000 WATERS ROAD  
 ROCKVILLE, MD 20850  
 PHONE: 301-441-8800

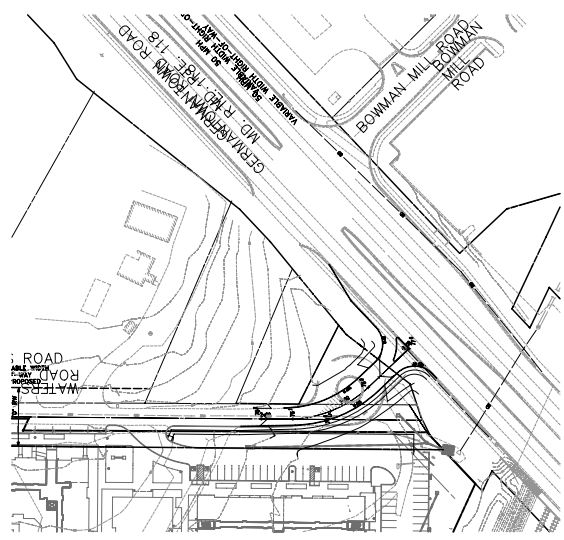
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NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	09/26/11
2	ISSUED FOR PERMIT	09/26/11
3	ISSUED FOR PERMIT	09/26/11
4	ISSUED FOR PERMIT	09/26/11

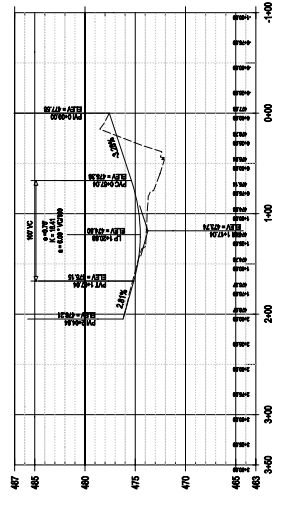
**ROCKVILLE OFFICE**  
 2 Research Park, Suite 100  
 Rockville, MD 20850  
 T: 301.441.2700 F: 301.441.8000



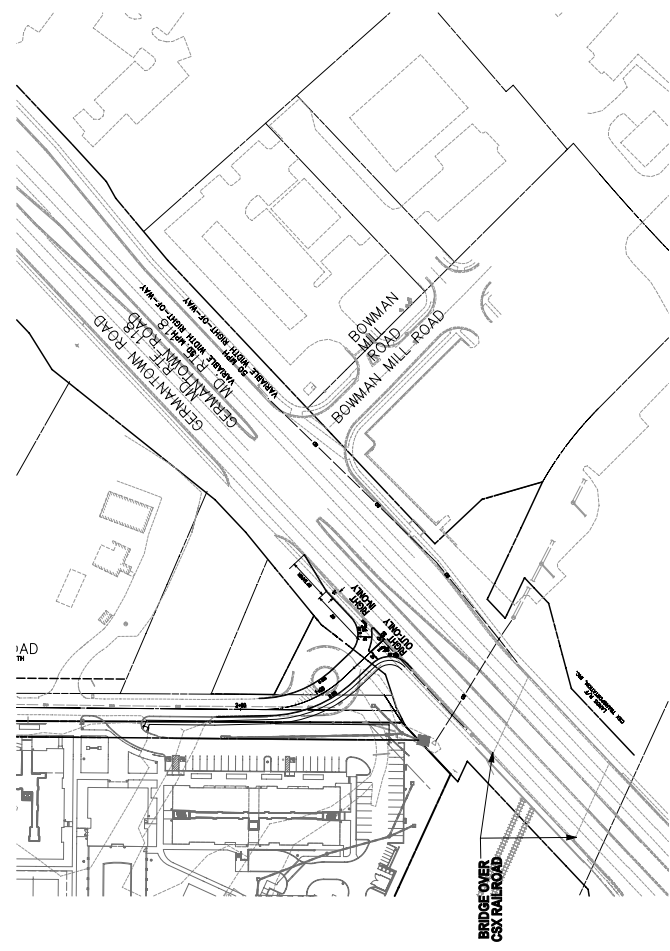
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**GRADING FOR INTERIM ACCESS  
ALIGNMENT FROM CUL-DE-SAC TO RTE 118**  
SCALE: 1"=80'



**VERTICAL PROFILE FOR INTERIM ACCESS FROM CUL-DE-SAC  
TO CONNECTION OF RTE 118**  
SCALE: HORIZ. 1"=50'  
VERT. 1"=5'



**PLAN VIEW FOR INTERIM RIGHT IN/RIGHT OUT ALIGNMENT**  
SCALE: 1"=80'

DATE: 09/26/2011

**LS**  
 PROJECT NO. 0904040  
 SHEET NO. 4  
 OF 4  
 DATE: 09/26/2011

**WATERS ROAD CONNECTION TO MD 118**  
**INTERIM RIGHT IN/RIGHT OUT INTERSECTION  
 OPTION FOR CONSTRUCTION IN EX. R.O.W PRIOR  
 TO ANY NEW R.O.W DEDICATION**

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITTING	09/26/2011
2	ISSUED FOR CONSTRUCTION	09/26/2011
3	ISSUED FOR AS-BUILT	09/26/2011
4	ISSUED FOR FINAL	09/26/2011

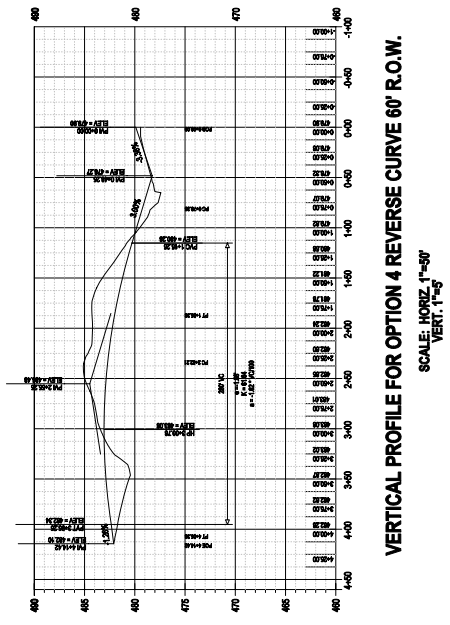
**CLIENT**  
 ROCKVILLE OFFICE  
 2 Research Park, Suite 100  
 Rockville, MD 20850  
 PHONE: 301-548-2000  
 FAX: 301-548-2001  
 WWW.LSCORPORATION.COM

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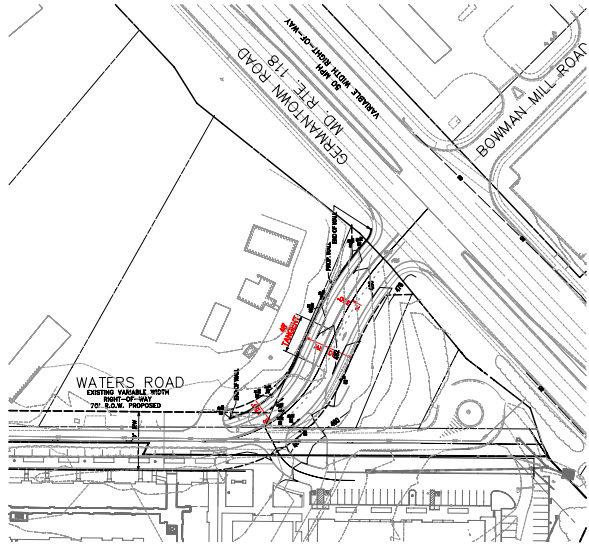
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2	ISSUED FOR CONSTRUCTION	09/26/2011
3	ISSUED FOR AS-BUILT	09/26/2011
4	ISSUED FOR FINAL	09/26/2011

**LS**  
 ROCKVILLE OFFICE  
 2 Research Park, Suite 100  
 Rockville, MD 20850  
 T: 301.548.2700 F: 301.548.2007  
 WWW.LSCORPORATION.COM

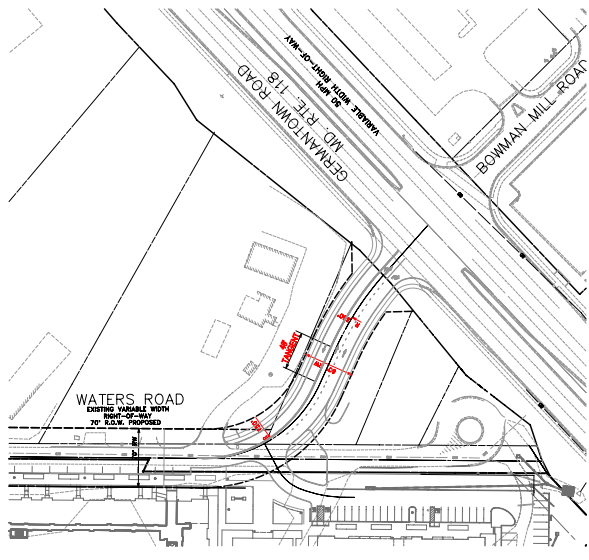
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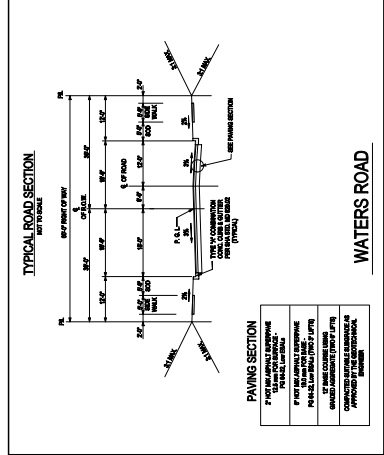
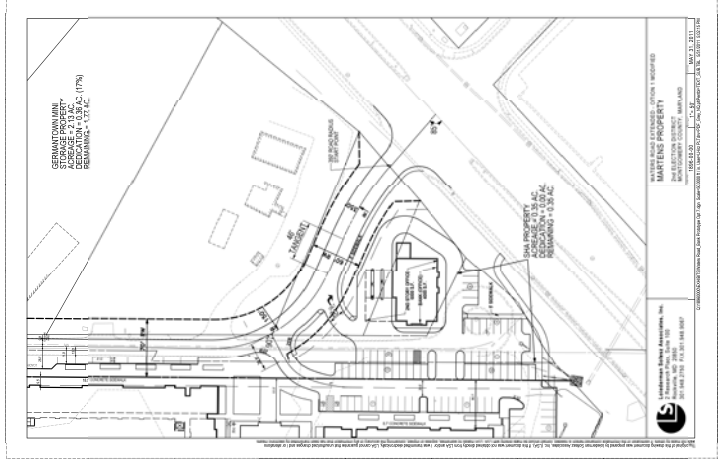
**VERTICAL PROFILE FOR OPTION 4 REVERSE CURVE 60' R.O.W.**  
 SCALE: HORIZ. 1"=20'  
 VERT. 1"=5'



**GRADING FOR OPTION 4 REVERSE CURVE 60' R.O.W.**  
 SCALE: 1"=60'



**RIGHT-OF-WAY REQUIREMENTS FOR OPTION 4 REVERSE CURVE 60' R.O.W.**  
 SCALE: 1"=60'



DATE: 10/24/2011

PROJECT NO.	100404
DATE	10/24/2011
SCALE	1"=60'
BY	5
CHECKED BY	5

WATERS ROAD CONNECTION TO MD 118  
 OPTION 4 AS REQUESTED BY MNCPPC

WATERS ROAD CONNECTION TO MD 118  
 OPTION 4 AS REQUESTED BY MNCPPC

NO.	DATE	DESCRIPTION
1	10/24/2011	ISSUED FOR PERMIT
2	10/24/2011	ISSUED FOR PERMIT
3	10/24/2011	ISSUED FOR PERMIT
4	10/24/2011	ISSUED FOR PERMIT
5	10/24/2011	ISSUED FOR PERMIT

CLIENT  
 MNCPPC  
 2000 W. WASHINGTON AVE.  
 WASHINGTON, DC 20004  
 PHONE: 202-462-2000  
 FAX: 202-462-2001  
 WWW.MNCPPC.COM

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NO.	DATE	DESCRIPTION
1	10/24/2011	ISSUED FOR PERMIT
2	10/24/2011	ISSUED FOR PERMIT
3	10/24/2011	ISSUED FOR PERMIT
4	10/24/2011	ISSUED FOR PERMIT
5	10/24/2011	ISSUED FOR PERMIT

PROJECT NO. 100404  
 DATE 10/24/2011  
 SCALE 1"=60'

ROCKVILLE OFFICE  
 2 Research Park, Suite 100  
 Rockville, MD 20850  
 T 301.341.2700 F 301.341.3007  
 WWW.LSCORPORATION.COM

DATE: 10/24/2011

## Appendix D



**Memorandum  
Martens Project**

**November 1, 2011**

**Re: Waters Road Centerline  
LSA Job #1896-00-00**

The right of way for Waters Road is prescriptive. This means that there is no specific document that created or dedicated the right of way, or established a specific right of way location. Sections of Waters Road east of Wisteria are identified as a 30' right of way. Some of the deeds in this section of Waters Road refer to it as a 30 foot right of way as is typical for many old prescriptive rights of way in the area.

With a prescriptive right of way, the common deed lines (property lines) of the properties on opposite sides of the road should form a continuous line that generally follows the centerline of the road, and the centerline of the prescriptive right of way. However, this condition is often modified incrementally over the years when people convey property, and attorneys write deeds for the conveyed property, only up to the perceived 30' right of way line even though the actual right of way has not yet been dedicated....it is still only prescriptive.

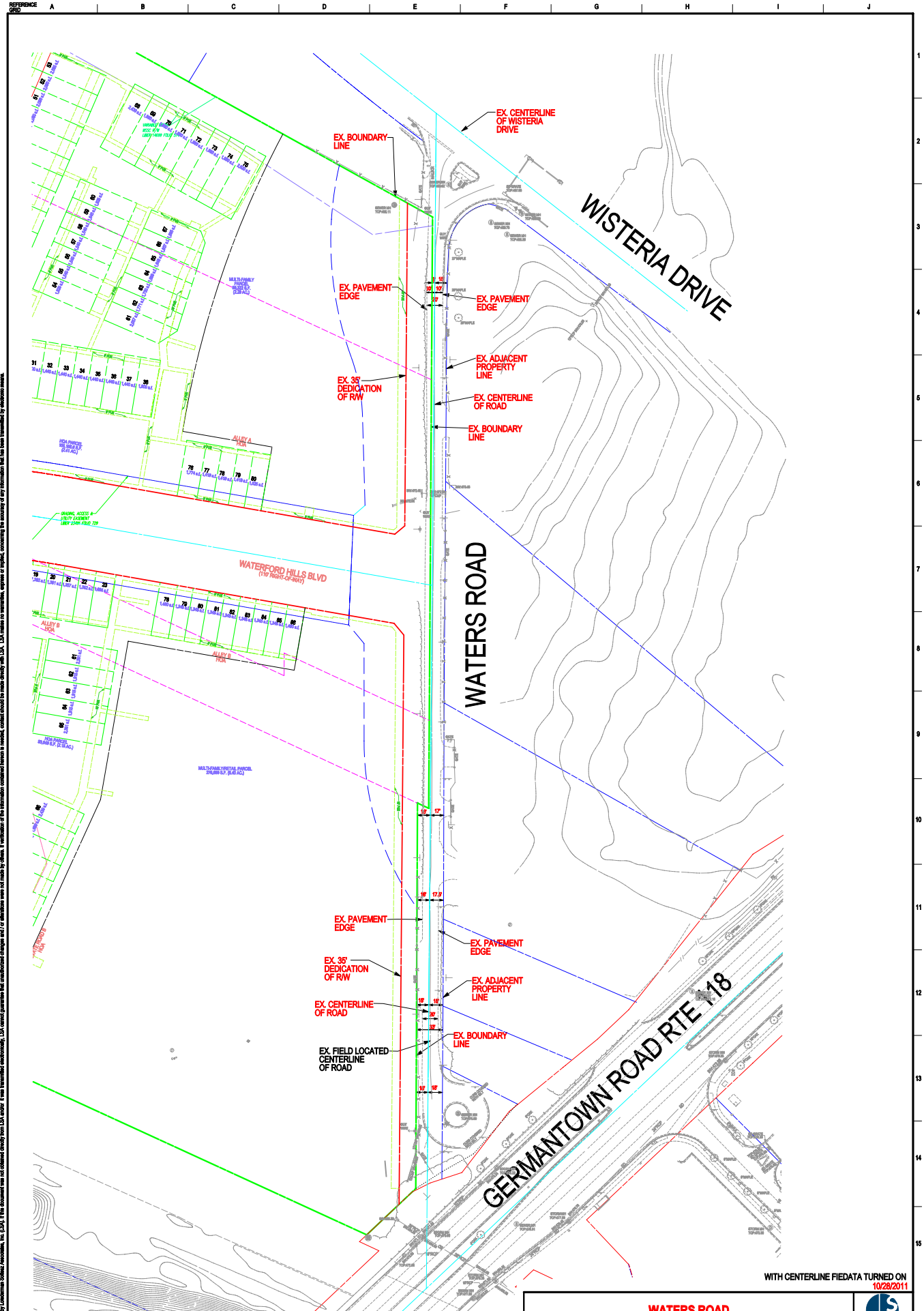
Although incorrect, this is a common occurrence that typically gets resolved when new development occurs. Ultimately, when a property goes through the subdivision process the road centerline, and the dedication of the (prescriptive) right of way, are established along with any additional right of way that may have been identified as necessary through a previous master plan process. This is the end goal for prescriptive rights of way like Waters Road.

The property lines indicated on the Martens development plans and the ALTA/ACSM Land Title Survey that we prepared are in accordance with the deeds recorded in the land records. Some of the older deeds that make up the Martens property do give calls that go to the "centerline" of the road and then follow the "centerline" of the road. Some, however, give calls that merely go to the edge of the road, the implied prescriptive right of way line. On the other (east) side of Waters Road, all of the deed lines appear to approximately follow the implied prescriptive right of way line and not the centerline. Unfortunately, these various deed lines are not parallel or a constant distance from of the existing pavement centerline.

When performing research to establish the Waters Road centerline, State Highway Administration Plat #54627 was obtained (see plat copy). SHA Plat #54627 was created for the intersection of Wisteria and Waters Road and shows the only recorded baseline for Waters Road that has been established. The SHA Plat identifies the coordinates and bearing of the Waters Road baseline, and also distances from the baseline to the prescriptive right of way lines on both sides of Waters Road. The distances are 14.61' to the west ROW line and 15.56' to the east ROW. Combined, these give approximately a 30 foot right of way. The SHA baseline was added to the LSA Survey drawings and projected the remaining distance straight down Waters Road. Next, the physical centerline of existing Waters Road pavement was field surveyed and added to the LSA Survey drawings (see attached LSA Waters Road Centerline Plan, sheet 1 of 1 dated 10/28/11).

Though there are a few different field survey or deed line based options for establishing a centerline for Waters Road, the decision was made to utilize the more conservative SHA baseline option that has already been used by the Maryland State Highway Administration. In addition to being established, the SHA baseline generally fits the existing "prescriptive" ROW property lines and favors the multiple ownership properties on the East side by its distance from their property lines and its location to the west of the field surveyed centerline of the existing Waters Road construction.

Brian L. Wood, RLS  
Director of Surveys



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WITH CENTERLINE FIELD DATA TURNED ON  
10/29/2011


**Lohde & Lohde Associates, Inc.**  
 Engineering  
 Planning  
 Surveying  
 Environmental Sciences

Rockville  
 Luthers  
 Waldorf  
 Leonardtown

**ROCKVILLE OFFICE**  
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 Rockville, MD 20850  
 1.301.948.2760 F. 301.948.9067  
[www.LLAsociates.net](http://www.LLAsociates.net)

DESIGNED	
DRAWN	
CHECKED	
PROJ. ENGR.	
OFFICE	
DATE	

**OWNER/DEVELOPER/APPLICANT**  
 BUCHANAN PARTNERS  
 601 WASHINGTON BLVD  
 SUITE 300  
 GAITHERSBURG, MD 20878  
 PHONE 801-47-6210  
 CHARLIE TURNER

COPYRIGHT AND THE MAP PEOPLE PERMITTED USE NUMBER 210-204 MAP 806 DATE 12-02 PROJECT CATEGORY 206-2	SHEET NO. 80 SHEET 2279N13
SITE MATRIX HORIZONTAL: 1/8"=1'-0" VERTICAL: 1/4"=1'-0"	

**WATERS ROAD**

**CENTERLINE EXHIBIT  
MARTENS PROPERTY**

CLAYBORNE (2ND) ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND

 1" = 50' SHEET 1 OF 1 PROJECT NO. 1884-06-00
--





# Appendix E

## Pereira, Sandra

---

**From:** Mark Wildman [markwildman@verizon.net]  
**Sent:** Wednesday, November 16, 2011 8:27 PM  
**To:** Pereira, Sandra; Carter, John  
**Subject:** Follow up to todays meeting.

Sandra and John,

Thanks for assembling all the necessary staff and taking the time to meet with us again today. I'm sorry that things got a little heated.

I'm in the process of having MHG make the changes to our 70' wide reverse curve connector road plan as discussed in our meeting today by moving the center line of Waters Road over 10' in front of my second driveway and holding the right of way line on my side of Waters Road as shown on our plan per John Carters suggestion . I will have MHG complete the changes to the plan and forward it to you and the Buchanan's for review ASAP.

Also, at our last meeting I brought up my concerns about the Buchanan plan not complying with the Master Plan in that the Master Plan requires primarily retail space on the first floor along Waters Road in buildings 1 and 3 . They correctly showed first floor Retail space along Waters Road in both buildings 1 and 3 in their original 7/25/2011 submitted plan. They later changed the plan on 10/10/2011 with an option of commercial space in building 1 on the first floor and only a small amount ( 1198 sf.) in building 3. As the Master Plan calls for (page 30) retail space along Waters Road I request that the Buchanan's comply with it, and change their plan back to what it was on 7/25/2011 . I would request that the first floor retail space be made a requirement in buildings 1 and 3, and in conformance with the Master Plan, it should be made part of the approved conditions for their site plan.

Finally, can you please let me know when the Martens/Buchanan plan is scheduled to go before the MC Planning Board? Again, I thank you for all your time and efforts thus far. I look forward to amicable resolutions for all these issues.

Thanks, Mark

## Pereira, Sandra

---

**From:** Mort Taubman [MTaubman@htwlaw.com]  
**Sent:** Monday, November 14, 2011 4:31 PM  
**To:** Pereira, Sandra  
**Cc:** mark wildman  
**Subject:** updated site plan for MSQ, LLC  
**Attachments:** msq.site plan 2.11.14.11; msq.site plan.1.11.14.11

Sandra:

I have finally received my engineer's plans for the MSQ, LLC site that will be included in my pre-preliminary site submission and can be used for discussion purposes for our Wednesday meeting at 11:30 AM in your office. The attached is the latest road alignment for the Waters Road extension and conceptual site layout for the properties involved. This alignment was set in manner to accommodate all of the existing agreements that are in place of all impacted properties, as well as allow adequate space for the development of MSQ property. The sight distances have been estimated and are shown in red and green-ish. I have not distributed the attached to any of the anticipated parties that will attend the Wednesday meeting, other than Mark Wildman, and I would appreciate if you would forward such plans to the persons you believe relevant to the meeting. Call with any questions

**Morton S. Taubman** | Attorney at Law



1201 15<sup>th</sup> Street, NW, Second Floor  
Washington, D.C. 20005

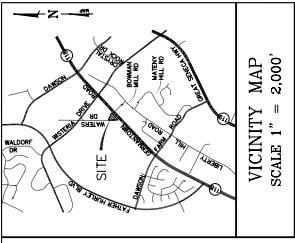
E-Mail: [mtaubman@htwlaw.com](mailto:mtaubman@htwlaw.com)

T: 202-347-9090 | F: 202-659-2679 | [www.htwlaw.com](http://www.htwlaw.com) | [View my bio](#)

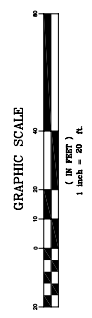
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VICINITY MAP  
SCALE 1" = 2,000'



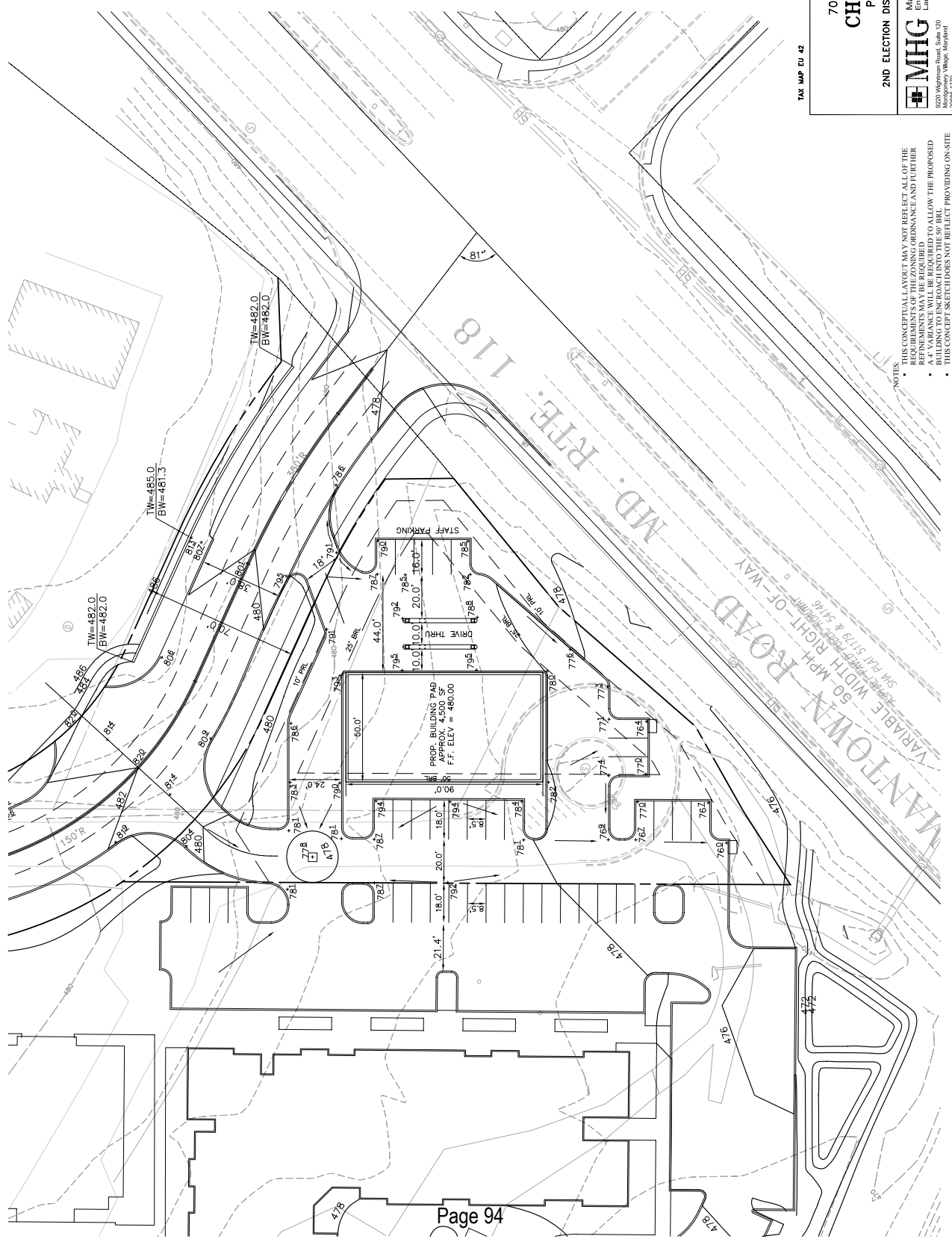
WSSC 227NM13

TAX MAP EU 42

CONCEPT SKETCH  
70' R/W - 150'R CURVE  
**CHESTNUT RIDGE**  
PARCELS P920 & P971  
2ND ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

**MHG**  
Macris, Hendricks & Glascock, P.A.  
Engineers • Planners  
Landscape Architects • Surveyors  
11-14-11  
1"=20'  
Project No. 2011.125.11  
www.mhga.com

Proj. Mgr. Designer  
Sup. Staff  
11-14-11 1"=20'  
Project No. 2011.125.11  
1 of 1



- NOTES:
- THIS CONCEPT LAYOUT MAY NOT REFLECT ALL OF THE REQUIREMENTS OF THE MONTGOMERY COUNTY ZONING ORDINANCES AND FURTHER REFINEMENTS MAY BE REQUIRED.
  - A 4' VARIANCE WILL BE REQUIRED TO ALLOW THE PROPOSED BUILDING TO BE LOCATED TO THE 150' R/W.
  - THIS PLAN IS A CONCEPTUAL SKETCH AND DOES NOT REFLECT PROVIDING ON-SITE STORMWATER MANAGEMENT.

## Pereira, Sandra

---

**From:** Mort Taubman [MTaubman@htwlaw.com]  
**Sent:** Thursday, October 27, 2011 2:37 PM  
**To:** 'Brewer, Robert G.'; Russ Gestl; Pereira, Sandra  
**Cc:** Brian Benninghoff; Bob Buchanan  
**Subject:** RE: Taubman/Buchanan

Gentlemen:

I wanted to provide you an update on the progress I have been making with respect to achieving a final solution for the ROW connector road alignment from Waters Road to Rt. 118. I have instructed my engineers to develop a curved ROW alignment since it has become clear from all of the agencies that a "T" alignment would not work either as a temporary or permanent solution. I met with Park and Planning and the State SHA today to review our proposed curved ROW using a 150 degree curve which would have encroach upon your property as well as Wildman's property. Park and Planning (as well as State) stated we did not need a 150 degree curve since the ROW would be designated as a "Business District Lane" and accordingly there are no regulations to require a 150 degree curve. All parties at the meeting worked with tracing paper to come up with a better alignment that would not interfere with your project and would work for Wildman. With the new alignment agreed too by all the parties at the meeting, including Wildman and the State (County could not attend but Park and Planning will arrange for a separate meeting with the County DOT to bring them in line with the agreed too alignment) I have instructed my engineers to finalize the new alignment and arrange to have my pre-preliminary plan submitted ASAP to be in front of the Park and Planning for final comments before your anticipated Board hearing on December 1<sup>st</sup>.

It was clear that Park and Planning wants the three property owners (Buchanan, Wildman and Taubman) agreeing to the alignment before your December 1<sup>st</sup> hearing and would prefer that Buchanan and I finalize the development agreement before such Hearing. Park and Planning will set another meeting for all the parties to be together to be assured all parties are on the same page before the December 1<sup>st</sup> hearing to be assured that the three property owners can support the Buchanan site plan. Finally, my engineer has raised an issue as to the survey Buchanan is using for its site plan alignment for Waters Road and my engineer is contacting your engineer to be assured all parties are using the correct boundaries set forth in Buchanan's site plan submittal.

Based upon my meeting today, I am very optimistic that we have resolved 99.9% of the issues that we faced in trying to finalize the development agreement and I am hopeful we can now begin the process of completing such agreement to assure a successful development for all the parties.

Please call with any questions. All the best,

**Morton S. Taubman** | Attorney at Law



1201 15<sup>th</sup> Street, NW, Second Floor  
Washington, D.C. 20005

E-Mail: [mtaubman@htwlaw.com](mailto:mtaubman@htwlaw.com)

T: 202-347-9090 | F: 202-659-2679 | [www.htwlaw.com](http://www.htwlaw.com) | [View my bio](#)

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## Pereira, Sandra

---

**From:** Pereira, Sandra  
**Sent:** Tuesday, October 25, 2011 11:41 AM  
**To:** 'Mark Wildman'  
**Cc:** 'Mort Taubman'; Greg.Leck@montgomerycountymd.gov; RBurns1@sha.state.md.us; Weaver, Richard  
**Subject:** RE: Follow up to October 6 meeting at Park and Planning

Mark,

Thanks for clarifying your support for Mr. Taubman's alignment. As previously mentioned, we've been working with the agencies trying to address everyone's concerns. The agencies have not provided written comments yet on the Buchanan connector road alignment package. Verbally they indicated their preference for the curved alignment because it reinforces Waters Road as the through movement. They expressed traffic safety and operations concerns associated with the T-alignment. Based on this feedback, we would like to discuss with you and Mr. Taubman another concept for this alignment, which would still maintain a curve but with minimal impacts to your property. We are optimistic that this concept will meet everyone's objectives.

I understand that Greg Leck is on vacation this week through Oct 31<sup>st</sup>. I suggest keeping our meeting for Oct 27<sup>th</sup> at 9:30, and if needed, we can schedule another meeting with Mr. Leck after he returns from vacation and once his schedule frees up. Please confirm that this is acceptable to you.

Sincerely,

Sandra

---

**From:** Mark Wildman [mailto:markwildman@verizon.net]  
**Sent:** Thursday, October 20, 2011 8:17 PM  
**To:** Pereira, Sandra  
**Cc:** 'Mort Taubman'; Greg.Leck@montgomerycountymd.gov; RBurns1@sha.state.md.us  
**Subject:** RE: Follow up to October 6 meeting at Park and Planning

Sandra,

Thanks for getting back to me and for trying to address the concerns raised by me and Mr. Taubman at our last meeting. At this point it would appear that DOT and SHA are moving forward with their review and comment of the Martens/Buchanan connector road alignment plan. To make our anticipated meeting more productive, I would respectfully ask that SHA, DOT and Park and Planning provide me and Mr. Taubman a copy of each agencies comments prior to our meeting and having Greg and Ray in our next meeting would be very beneficial at this time. Thus, if you could please forward the comments to me ASAP would be beneficial.

As to the Taubman 70' Tee alignment plan, I support his plan as a final connector road alignment. However, the plan didn't appear to have much support by the Park and Planning staff at our Oct. 6 meeting. Was my observation correct? I think Richard Weaver stated he would not support a tee alignment that would connect one leg of the tee to a private driveway and parking area. Given that one comment, I don't see how his tee plan will work, because Mr. Taubman needs that connection to service his property.



After discussing the connector road alignment issue with Mr. Taubman, I now know that Mr. Taubman with his engineers are working on a new 70' connector road alignment plan, taking into account the comments made by your staff at the October 6<sup>th</sup> meeting and my review of such alignment plan meets my full support. Thus, eliminating the need for me to design and file another plan for review at this time. Further, I know Mr. Taubman is preparing his pre-preliminary plan submission and I support his plan. I look forward to receiving the requested comments from DOT and SHA for the anticipated meeting with you and your staff (and hopefully with DOT and SHA). I'm available to meet on Oct. 27<sup>th</sup> at 9:30AM. I have confirmed that Mr. Taubman can make that date and time also.

Thanks, Mark

---

**From:** Pereira, Sandra [mailto:Sandra.Pereira@montgomeryplanning.org]  
**Sent:** Wednesday, October 19, 2011 2:46 PM  
**To:** Mark Wildman  
**Cc:** 'Mort Taubman'; Greg.Leck@montgomerycountymd.gov; RBurns1@sha.state.md.us  
**Subject:** RE: Follow up to October 6 meeting at Park and Planning

Mark,

Thanks for your email. We are working with the other agencies trying to address the concerns raised by you and Mr. Taubman while reviewing the alignment package submitted by the Martens team. Our staff is available to meet with you on the following dates:

- Wednesday, Oct 26 at 3:00
- Thursday, Oct 27 at 9:30
- Monday, Oct 31 anytime during the morning

Because at the last meeting you verbally supported the alignment presented by Mr. Taubman and it is not clear from your email whether you have a different alignment at this time, we suggest that Mr. Taubman attend this meeting as well. Please let us know which date/time works best for both of you.

Greg and Ray,

Please feel free to attend this meeting if you see fit. If these dates don't work, please suggest alternative dates.

Sincerely,  
Sandra

---

**From:** Mark Wildman [mailto:markwildman@verizon.net]  
**Sent:** Wednesday, October 12, 2011 9:21 AM  
**To:** Pereira, Sandra  
**Cc:** 'Mort Taubman'; Greg.Leck@montgomerycountymd.gov; RBurns1@sha.state.md.us  
**Subject:** Follow up to October 6 meeting at Park and Planning

Good morning Sandra,

Thanks for including me in last weeks meeting on October 6, 2011. I was surprised to hear that Park and Planning, SHA and DOT have all been having meeting with the Buchanan Group about the connector road alignment without the involvement of me or Mr. Taubman, the affected property owners. The Buchanan Group has now filed a final connector road alignment plan concept with SHA and DOT on September 27 for review and comment without the consent of the

affected property owners. I disagree with the way this process has been handled and I would respectfully ask that you stop this process until the affected property owners have the opportunity to participate. Attached below for your review is the email I sent to SHA and DOT.

Please include me in any future meetings pertaining to the Buchanan/Martens project and please notify me as soon as you know when the Martens/Buchanan site plan is scheduled to go before the Planning Board for preliminary and site plan review.

Sincerely, Mark Wildman

Mr. Leck:

Mr. Burns:

I am the owner of property (Wildman property) adjacent to the Martens Project in Germantown. I attended a meeting at MC- MNCPPC on Thursday October 6 and discovered that the Buchanan Group, who is developing the Martens site, has filed a final connector road alignment plan with your agency for review and comment. This plan would severely impact my property . I have not been included in the process leading up to this point, and have never had the opportunity for any input into the plan. I would respectfully ask that your agency reject this plan for review at this time until the property owners that are affected by this road have the opportunity to submit their input and design.

Further, I do not agree with the Buchanan interim, temporary to an ultimate connector road alignment concept or their Master Plan alignment design. The Master Plan clearly states in resolution 16-1126 that " The diagrams showing roads on new locations are meant to convey connectivity, and not necessarily their precise alignment." The Master Plan shows more than one conceptual alignment for the connector road coming from the Bowman Mill Road intersection at MD. 118. The Master Plan shows a four way intersection, a curved alignment, a curved tee alignment that all connect back to Waters Road at some point. The Master Plan only requires that a connection be made from the Bowman Mill Road intersection at MD. 118 to Waters Road and not the precise alignment. The Buchanan Group has submitted to your agency a road alignment plan named "the Master Plan alignment" as though this alignment is the approved connector road alignment by the Montgomery County Planning Board, it is NOT. I'm concerned with this alignment name and how it may influence your staff's decisions when reviewing their plan. Again, I ask that you reject this plan at this time. It is my hope that your agency will work with the affected property owners and come to a satisfactory alignment.

I would like to meet with you at your earliest conveniences to present my plan for consideration.

Sincerely, Mark Wildman

## Pereira, Sandra

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**From:** Mort Taubman [mtaubman@isiwdc.com]  
**Sent:** Thursday, September 29, 2011 12:43 PM  
**To:** Pereira, Sandra  
**Cc:** Russ Gestl; Brewer, Robert G.  
**Subject:** martens project/msq project

Sandra:

As previously indicated, I am desirous to arrive at a permanent solution for the ROW alignment to be approved at this time by the various relevant agencies in order to assure the path of success for the development of the Martens Project as well as my anticipated project. As indicated, my engineers have arrived at a 70' ROW alignment proposal that not only meets my approval and Buchanan's, but also, Wildman, and such ROW alignment appears to meet the recorded comments made by the various agencies with the respect to the desired ROW. In my desire not to hold up Buchanan's site approval process I would like to request a meeting with your group and with the County and State DOT personnel to present my proposed ROW alignment solution as quickly as possible so I can get a clear direction for my anticipated subdivision and site plan filings. With my ability to get Wildman's approval, it appears to me we would accomplish the desired result of the County by providing a 70' ROW with an alignment that meets the traffic studies and pedestrian traffic and approved by the relevant land owners. I would then immediately start the process to file my subdivision plan to fall in line with Buchanan's schedule and accordingly should not cause any delays to Buchanan. My only schedule restriction is October 11 and 12.

Your immediate attention to this request is greatly appreciated. All the best,

**Morton S. Taubman** | Attorney at Law



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