



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

RECEIVED
MARCH 1 2005

Douglas M. Duncan
County Executive

March 11, 2005

THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Mr. Derick P. Berlage, Chairman
Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Mr. Berlage:

Thank you for your January 20, 2005, letter requesting advanced land acquisition of the Middlebrook Road location for the future Corridor Cities Transitway station. I have reviewed your request with the Department of Public Works and Transportation (DPWT) and conclude that acquiring the Middlebrook Station location at this time is not the highest priority and best use for our limited land acquisition resources. Currently, there are a variety of high priority projects competing for use of these monies, which include two Fire Stations, a Police Station and the North County Depot.

In addition to scarcity of land acquisition resources and other high priority projects, it is unclear at the present time which modal alternative and phasing for the Corridor Cities Transitway will be selected as the locally preferred alternative and whether the Middlebrook property will be part of the preferred alternative. Until we have more information from the Maryland Department of Transportation, it is difficult to proceed with the property acquisition.

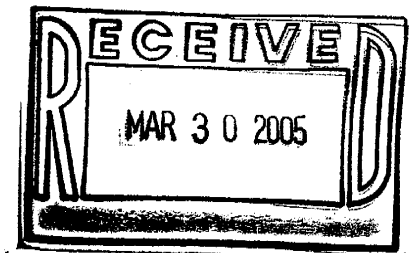
Please contact Mr. Edgar Gonzalez of DPWT directly at 240-777-7185 for any additional technical coordination.

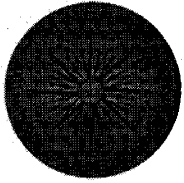
Sincerely,

Douglas M. Duncan
County Executive

DMD:tt

Please call me on this - Thanks -





April 6, 2005

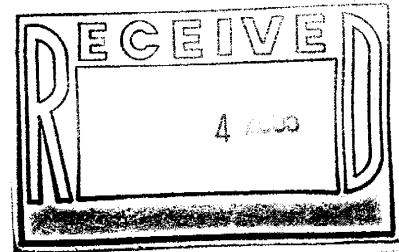
MEMORANDUM

TO: Joel Gallihue
Development Review Division

VIA: Daniel K. Hardy, Supervisor *DKH*
Transportation Planning

FROM: Ki H. Kim, Planner *KHK*
Transportation Planning

SUBJECT: New Covenant Fellowship Church
Special Exception Case No. S-2635



This memorandum represents Transportation Planning staff's Adequate Public Facilities (APF) review and recommendations on the subject special exception application for the proposed 96 units of housing for the elderly on the existing New Covenant Fellowship Church located on Waring Station Road in the Germantown area.

RECOMMENDATION

Transportation Planning staff recommends no conditions required to support approval of the subject special exception application based on our findings that the proposed elderly housing development would have no adverse effect on adjacent intersections and roads.

DISCUSSION

Local Area Transportation Review

Two intersections were identified as critical intersections to be affected by the proposed addition of the 94-unit elderly housing development to the existing church site and were examined in the traffic study to determine whether they met the applicable congestion standard of 1,450 Critical Lane Volume (CLV) for the Germantown West Policy Area. The critical lane volume impacts of the proposed expansion on critical intersections in the vicinity of the site were analyzed and are summarized in Table 1.

Table 1

Intersection Capacity Analysis with CLV During the Peak Hour						
Intersection	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Middlebrook Rd./ Waring Station Rd.	959	1,081	1,028	1,147	1,029	1,149
Waring Station Rd./ Wisteria Dr.	555	666	571	668	571	668

As shown in the above table, the two intersections analyzed are currently operating at acceptable CLVs (below 1,450) and this acceptable level will continue for the background development condition (existing traffic plus approved but not-built subdivisions in the area) and the total development condition (background traffic plus traffic from the site) during both the AM and PM peak hours.

Site Access and Vehicular/Pedestrian Circulation

Access to the site exists on Waring Station Road and a lead-in sidewalk from Waring Station Road to the site will be constructed as a part of the proposed development. Staff finds that the existing access to the site and the internal traffic/pedestrian circulation system shown on the site plan are safe and adequate.

Master Plan Roadway and Bikeway

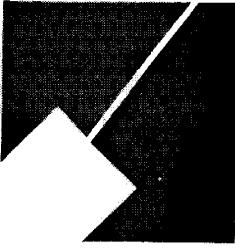
Waring Station Road exists as a four-lane undivided arterial roadway with sidewalks on both sides per the Germantown Master Plan's recommendation. A bikeway is not recommended along Waring Station Road either in the Germantown Master Plan or the Countywide Bikeways Functional Master Plan. I-270 is recommended as a Freeway with a 300-foot right-of-way (ROW). The Germantown Master Plan recommends a 70-foot ROW for the Corridor Cities Transit Easement along the eastern edge of the site. The Germantown Master Plan identifies the subject site as the location of a potential Corridor Cities Transitway station. The value of this station location has increased as a result of subsequent studies. Staff will pursue provision for this future station through an easement for future dedication during the preliminary plan of subdivision process associated with the special exception case.

Summary

Transportation Planning staff concludes that the granting of the requested Special Exception to allow the proposed 94 units of elderly housing on the existing New Covenant Fellowship Church would not have an adverse effect on the nearby road system.

KHK:gw

mno to Gallihue re CBA-2635 - New Cov Fellow Church.doc



FEB 16 2005

MEMORANDUM

TO: Carlton Gilbert, Development Review

VIA: Mary Dolan, Environmental Planning *MD*

FROM: Michael Zamore, Environmental Planning *MZ*

DATE: February 15, 2005

SUBJECT: Special Exception S-2635
Housing for Senior Adults, 18901 Waring Station Road, Germantown

Environmental Planning staff has reviewed the Special Exception request referenced above. Staff recommends **approval** of this request with the following conditions:

1. Compliance with the conditions of approval of the Final Forest Conservation Plan (Plan No. 1-97044) of March 1999, prior to MCDPS release of sediment and erosion control permit.
2. Compliance with stormwater and sediment control regulations of the Montgomery County Department of Permitting Services (DPS).

Forest Conservation

The site is part of a 32-acre Parcel "D" located immediately west of Interstate 270 and east of Waring Station Road in Germantown. An approved Natural Resources Inventory/Forest Stand Delineation (NRI/FSD)(No.4-97036 of October 1996), an approved Preliminary Plan of Subdivision (No. 1-97044 of July 1997), and an approved Final Forest Conservation Plan (No. 1-97044 of March 1999) for a house of worship and associated uses, cover the site. The applicant was required to dedicate land for Interstate 270 improvements, a construction slope easement for the Master Plan alignment for the Corridor Cities Transitway (CCT), and a 12.9-acre Category I Forest Conservation Easement over the stream buffer, wetlands and forest conservation areas onsite, as conditions of Preliminary Plan and Forest Conservation Plan approval.

The site is partially developed as a place of worship (the New Covenant Fellowship Church), with a 1,200-seat sanctuary and parking. The proposed senior adult housing facility will be built on a 3.77-acre plateau bounded on three sides by steep slopes that fall to a perennial stream and to Interstate 270. The site for this special exception request is shown as "future paving" on the FCP and was mass-graded when the sanctuary was constructed in 1997. Construction for this project will require no further grading or removal of trees and forest. The proposed special exception use is not in conflict with the existing FCP. Separate FCP and NRI/FSD are therefore, not required for this special exception application.

Environmental Guidelines

This site is not located within a Special Protection Area. The stream valley buffer and associated waterway, steep slopes, wetlands and their buffers, are protected by a Category I Forest Conservation Easement. As required by the Environmental Guidelines, the stream valley buffer has been extended to 150 feet where steep slopes and/or erodible soils extend beyond the buffer line.

Leadership in Energy and Environmental Design (LEED)

The applicant is encouraged to consider using locally sourced sustainable or renewable materials, recommended by the U.S. Green Building Council standards for Leadership in Energy and Environmental Design (LEED), where feasible, in the proposed construction.

Watershed Protection

The property is in the Gunner's Branch of the Middle Great Seneca Creek Watershed. The Montgomery County *Countywide Stream Protection Strategy* (CSPS, 1998) lists the Gunner's Branch subwatershed, stream, and habitat conditions as 'fair' based on data available at the time. This large tributary drains portions of Germantown, which have relatively new developed areas with stormwater controls. Regional controls have been used in some areas.

CSPS has designated the Gunner's Branch Tributary as a remedial Watershed Restoration Area. Impervious surfaces have had an effect on the stream conditions in such areas. CSPS recommends the use of onsite stormwater management efforts and watershed-based restoration approaches that include study and implementation of feasible projects, to help correct these existing conditions.

Water and Sewer Availability

An 8-inch public water line (Category W-1) and a 6-inch public sewer system (Category S-1), currently serve the property. Existing water and sewer are adequate to serve the site.

Dust

Dust, fumes and odors are not expected to be problematic since the project site will be paved or landscaped. An existing forested buffer (part of the Category I Forest Conservation Easement) will screen existing residential uses on Waring Station Road from the new development.

Noise

The project will cause no objectionable noise over and above existing levels.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Memorandum (Revised)

To: Joel Gallihue, AICP, Development Review Division
CC: Karl Moritz, Chief, Research and Technology Center (RTC)
Date: April 15, 2005
From: Sharon Suarez, AICP, Housing Coordinator, RTC *XS*
Re: Special Exception Application S-2635, New Covenant Village

This revised memorandum presents the Housing Staff's review of the Special Exception application for Covenant Village, based on information received subsequent to the Housing Staff's original memo, dated April 12, 2005 (Attachment A).

RECOMMENDATION

Based on the commitment to revise the Housing Management Plan as discussed below, housing staff recommends approval of this Special Exception request.

DISCUSSION

Housing staff originally reviewed the various documents submitted by the applicant and noted that there was no clear commitment in the Housing Management Plan to market and maintain the age-restriction. It seemed logical that the lists of responsibilities for the Property Manager and/or Assistant Property Manager (Attachment A of the Housing Management Plan) should include the maintenance and reporting of the age-surveys and that the marketing procedures should be clear in their intent to attract the target population.

Housing staff spoke with Cara A. Fry the firm of Schulman Rogers Gandal Pordy & Echer, PA, on April 14, 2005, about these concerns. Subsequent to that conversation, housing staff received a copy of a letter from David D. Freishtat and Cara A. Frye (both of the firm of Schulman Rogers Gandal Pordy & Echer, PA), dated April 14, 2005 and included herein as Attachment B, in which the applicant team committed to amend the Housing Management Plan with regard to (1) the identification of the person(s) to be responsible for ensuring that the residents are 62 and older, (2) the procedure to be used to ensure that the age-restriction is maintained, and (3) the clarification of the target population within the marketing materials. In the letter, Mr. Freishtat and Ms. Frye also stated that they intend to submit the revised Housing Management Plan into the record and to provide the Department's staff with a copy.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Memorandum

To: Joel Gallihue, AICP, Development Review Division
CC: Karl Moritz, Chief, Research and Technology Center (RTC)
Date: April 12, 2005
From: Sharon Suarez, AICP, Housing Coordinator, RTC
Re: Special Exception Application S-2635, New Covenant Village

This memorandum presents the Housing Staff's review of the Special Exception application for Covenant Village.

RECOMMENDATION

Housing staff reviewed the various documents submitted by the applicant and noted that there was no clear commitment in the Housing Management Plan to market and maintain the age-restriction. It seemed logical that the lists of responsibilities for either or both the Property Manager or the Assistant Property Manager (Attachment A of the Housing Management Plan) should include the maintenance and reporting of the age-surveys and that the marketing procedures should be clear in their intent to attract the target population. Housing staff recommends approval on the condition that these deficiencies in the Housing Management Plan be corrected by the applicant.

DISCUSSION

Because maintenance of the age restriction for seniors-only housing is the responsibility of the housing facility, it is critical for the housing facility to have a published plan to monitor and enforce the age restriction. Therefore, housing staff finds the special exception application for the above referenced project deficient in the following ways:

1. The application appears deficient in the description of intent, per 24 CFR 100.306.¹ To implement 24 CFR 100.36, a housing facility must publish and adhere to policies and procedures

¹ Dept. of Housing and Urban Development (HUD), "Implementation of the Housing for Older Person's Act," *Federal Register*, Vol. 64, No. 63 (April 2, 1999): 16330.

S-2436 Covenant Village

that demonstrate its intent to operate as housing for persons 55 years of age or older (in the instance of this special exception application the facility is proposed for persons 62 years of age or older). The intent should be clearly revealed through the signage and marketing plans, among other things. The sign “Covenant Village A Senior Housing Community” is not, in and of itself sufficient to show intent to operate as housing designed for persons who are 55 years of age or older. Housing staff believes that the applicant should provide specific strategies per 24 CFR 100.306 (a) through (d).²

2. The application appears deficient in the methodology to be used to monitor and report residential ages, per 24 CFR 100.307.³ Key to the ability to gain and sustain the age-restriction is the facility’s ability to monitor and enforce compliance with the age restriction. If the property fails to maintain compliance as set forth in the management plan in Attachment B (Resident Selection Criteria), which is that all residents be 62 years of age or older, then the property will lose its age-restriction status. Once gone, the property will no longer be able to refuse to admit households without regard to age (without regard to familial status or the presence of children). Housing staff believes that the applicant should provide specific strategies per 24 CFR 100.307 (a) through (j).⁴

3. It appears that the Housing Management Plan is insufficient with regard to the responsibilities of the Property Manager and Assistant Property Manager, as well as in the description of the procedure to verify the ages of residents. If neither the Property Manager nor the Assistant Property Manager is responsible for the facility’s compliance with 24 CFR 100, then a compliance officer should be named and responsibilities set forth. That said, a proper place for the explanation of the procedure to be used to perform, store, and report the age-surveys is likely in Sections VI.A and VI.B of the Housing Management Plan. Further, it seems logical that the lists of responsibilities for both the Property Manager and the Assistant Property Manager (Attachment A of the Housing Management Plan) should include the maintenance and reporting of the age-surveys, both at the time of lease-up and biannually, thereafter.

² HUD, “Implementation of the Housing for Older Person’s Act,” 16330.

³ HUD, “Implementation of the Housing for Older Person’s Act,” 16330.

⁴ HUD, “Implementation of the Housing for Older Person’s Act,” 16330.

**SHULMAN
ROGERS
GANDAL
PORDY &
ECKER, P.A.**

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Donald R. Rogers
Karl L. Esher*
David A. Peeply*
David D. Freishtat
Martin P. Schaffer
Christopher C. Roberts
Jeffrey A. Stone
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Waiver's Direct Dial Number:

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301.255.0530
cfrye@srgpe.com

April 14, 2005

VIA ELECTRONIC MAIL

Mr. Joel Gallihue
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Covenant Village, LLC / Application for Special Exception
18901 Waring Station Road, Germantown, Maryland
Board of Appeals Case No.: S-2635
Our File No.: 082560.00012

Dear Mr. Gallihue:

Please accept this letter into the record in the above-referenced case. As you are aware, Covenant Village, LLC, has entered into a relationship with Quantum Management for the maintenance and operations of the Covenant Village senior housing project. In reviewing Quantum's Draft Housing Management Plan which was submitted with the application for Special Exception, it has come to our attention that the Draft Plan does not specifically set forth the procedures to ensure that the Covenant Village residents are 62 years of age or older. The Draft Plan will therefore be amended to accurately provide those procedures and the individual who will maintain responsibility for said compliance. We have contacted Quantum Management and requested a revised copy of the Draft Management Plan for submission into the record. We will provide you with a copy as soon as it becomes available.

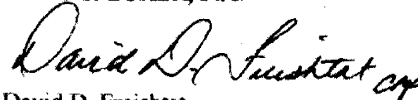
As stated in our application for Special Exception, Covenant Village will be operated for independent seniors who are 62 years of age and older. Throughout the Special Exception application materials, the project has been described as both "independent" and "active adult." We understand that the increasing number of housing options in the market today along with their miscellaneous "buzz-words," have the potential to create some level of confusion for seniors. In order to reduce this potential confusion, the project sponsor commits to clearly stating in its marketing materials, that Covenant Village apartment homes will be leased only to residents who are 62 years of age or older.

**SHULMAN
ROGERS
GANDAL
PORDY &
ECKER, P.A.**

Please do not hesitate to contact me if you have questions or concerns, or require additional information. Thank you.

Very truly yours,

SHULMAN, ROGERS, GANDAL,
PORDY & ECKER, P.A.

By: 
David D. Freishtat

By: 
Cara A. Frye

- c: Ms. Sharon Suarez, AICP, Housing Coordinator
Office of Zoning and Administrative Hearings
- Ms. Tina Kim
- Margaret P. Besette, Quantum Real Estate Management, LLC

GA115\Client\New Covenant Fellowship Church\SPECIAL EXCEPTION\Letter to Galilee re HOPA (2) 4-14-05.doc