



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed: July 16, 2002

Action: Approved Staff Recommendation
Motion of Comm. Wellington, seconded
Comm. Robinson with a vote of 4-0;
Comms. Bryant, Holmes,
Robinson and Wellington voting
in favor
Commissioner Perdue absent

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-02068

NAME OF PLAN: FAIRFIELD AT GERMANTOWN

On 11/27/01, Fairfield Residential submitted an application for the approval of a preliminary plan of subdivision of property in the RMX-2/R-200 zone. The application proposed to create 1 lot on 62.4 acres of land. The application was designated Preliminary Plan 1-02068. On 06/13/02, Preliminary Plan 1-02068 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-02068 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-02068.

Approval, subject to the following conditions:

- (1) Approval under this preliminary plan is limited to a maximum of six-hundred and ten (610) multi-family dwelling units and 250,000 square feet of office/retail use and provide the necessary road way improvements as outlined in the June 7, 2002 Transportation Planning Division memo which states:
 - a. The applicant shall construct a separate southbound right-turn lane, a second northbound left-turn lane, a second eastbound left-turn lane (Phase 2), and restripe the separate westbound right-turn lane on Wisteria Drive as a shared through and right turn lane (Phase 1) at the MD 118/Wistria Drive intersection.
 - b. The applicant shall construct a second westbound left-turn lane (Phase 1), a second northbound left-turn lane (Phase 2), and modify traffic signal to eliminate eastbound-westbound split phasing at the MD 118/Middlebrook Road intersection (Phase 1). Also, the applicant shall design and construct the removal of the channelized (free flow) located in the southeast quadrant of this intersection provided monies required to be escrowed pursuant to Site Plan No. 8-84011A (Northlake Commerce Center) and Site Plan No. 8-98042 (Germantown Two Center Phase I) are available for the improvement and Preliminary plan No. 1-99020 (North

Germantown) participate in the improvements as required by its approval (Phase I)

- c. The applicant shall restripe the eastbound Crystal Rock Drive approach to provide a **separate** right-turn lane, a **shared** through and left-turn lane, and a separate left-turn lane at the MD 118/Crystal Rock Drive intersection. (Phase 1)
 - d. The applicant shall construct a second westbound left-turn lane at (Great Seneca Highway (MD 119)/Middlebrook Road intersection. (Phase 2)
 - e. The applicant shall construct a separate northbound right-turn lane, restripe and designate existing Wisteria Center Lane for separate left-turn lanes, and install new traffic signal if warrants and spacing criteria are met at the Wisteria Drive/Waters Road intersection. (Phase 2)
 - f. The applicant shall construct a westbound left-turn lane on Wisteria Drive, a separate left and through lanes on Father Hurley Boulevard (FHB), and install new traffic signal if warranted at the Father Hurley Boulevard intersection. (Phase 1)
 - g. The applicant shall construct two lanes of Father Hurley Boulevard **from** Wisteria Drive SW to the site entrance, plus the full cross section of Father Hurley Boulevard from Wisteria Drive SW for a distance of approximately 600 feet, with final scope subject to pending minor realignment of Father Hurley Boulevard by the Department of Public Works and Transportation (DPW&T), **to** include a temporary transition from **five** lanes to the two beyond (Phase 1). Final details are to be resolved as of the Site Plan review submission for the project.
 - h. The applicant shall agree that the roadway improvements listed as conditions of approval are under construction in accordance with the phasing of road improvements as designated in the above conditions for the following phased development.
 - a. Phase 1 includes 610 garden apartments.
 - b. Phase 2 includes full development.
 - i. The applicant shall improve Waters Road (Locbury Drive) to meet the County two-lane roadway standards as shown on the project plan **(Phase 2)**
- (2) All road rights-of-way shown on the approved preliminary plan shall be dedicated, by the applicant, to the full width mandated by the Germantown Master Plan unless otherwise designated on the preliminary plan
 - (3) All road right-of ways shown on the approved preliminary plan shall be constructed, by the applicant, to the full width mandated by the Germantown Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition
 - (4) Compliance with the conditions of MCDPS stormwater management approval Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s)
 - (5) No clearing, grading or recording of plats prior to site plan enforcement agreement approval
 - (6) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bike paths will be determined at site plan

- (7) Provide final landscape and lighting plan prior to site plan for review and approval by the Planning Board
- (8) Final number of MPDU's dependent upon condition #6 above and will be determined at the time of site plan review
- (9) The validity of the preliminary plan is dependent upon the applicant proceeding with and abiding by the conditions of approval of Project Plan No 9-02002
- (10) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
- (11) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
- (12) Other necessary easements
- (13) Record plat to indicate residential density of 610 units is calculated over entire 62.4 acres site and do additional residential density is available on any of the 62.4 acre lot



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MONTGOMERY COUNTY PLANNING BOARD

OPINION

DATE MAILED: June 19, 2002
PROJECT PLAN REVIEW # 9-02002
PROJECT NAME: Fairfield a: Germantown

Action: Approval subject to conditions. Motion was made by Commissioner Wellington, seconded by Commissioner Robinson, with a vote of 4-0, Commissioners Bryant, Holmes, Robinson and Wellington voting for. Commissioner Perdue was necessarily absent.

The date of this written opinion is June 19, 2002 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before July 19, 2002 (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, then this Project Plan shall remain valid until July 19, 2004 as provided in Section 59-D-2.7.

On June 13, 2002 Project Plan Review #9-02002 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. *As conditioned, the proposal complies with all of the intents and requirements of the zone.*
2. *As conditioned, the proposal conforms to the approved and adopted sector plan or an urban renewal plan approved under Chapter 56. Not Applicable.*
3. *As conditioned, because of its location, size, intensity, design, operational characteristics and staging, the proposal is compatible with and not detrimental to existing or potential development in the general neighborhood.*
4. *As conditioned, the proposal 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.*
5. *The proposal is more efficient and desirable than could be accomplished by the use of the standard method of development.*

6. *The proposal will include moderately priced dwellings units in accordance with Chapter 25A of this code, if the requirements of that chapter apply.*
7. *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 based on the following findings:*
 - A. *The Project will preserve an historic site, building, structure or area as shown on the Locational Atlas and Index of Historic Sites or the Master Plan for Historic; and/or*
 - B. *The Project will implement an urban renewal plan adopted pursuant to Chapter 56 of the Montgomery County Code; and/or*
 - C. *The Project will result in an overall land use configuration that is significantly superior to that which could otherwise be achieved.*
8. *Not Applicable*
8. *As conditioned, the proposal satisfies any applicable requirements for forest conservation under Chapter 22A.*
9. *As conditioned, the proposal satisfies any applicable requirements for water quality resource protection under Chapter 19.*

Therefore the Montgomery County Planning Board APPROVES Project Plan #9-02002, which consists of 510 garden apartments including 92 MPDUs and 250,000 GSF office/retail on 62.4 acres, with the following conditions:

1. The commercial portion of this Project Plan is approved in concept only; the future commercial applicant must resubmit a complete Project Plan application for the commercial portion to the Planning Board for approval of the design, facilities and amenities later.
2. Provision of \$300,000 to the M-NCPPC for use in the Germantown Town Center Park on the former Miller property, to cover construction costs of park facilities and/or Library-site-related improvements, in an escrow account to be established prior to building permit release for the housing proposed.
3. Construction of the previously authorized removal of a free right turn from NW-bound Middlebrook to NE-bound MD #118, as part of the improvements described in the Transportation Planning staff memo which are conditions of approval of the Preliminary Plan.
4. Construction of two lanes of Father Hurley Boulevard from Wisteria SW to the site entrance, plus the full cross section of Father Hurley from Wisteria SW for a distance of approximately 600 feet, with final scope subject to pending minor realignment of Father Hurley by MCDPWT, to include a temporary transition from these six lanes to the two beyond. Final details are to be resolved as part of the Site Plan Review submission for Fairfield.
5. For Site Plan Review, conduct a noise analysis to determine the 65-dB noise contour from the tracks and Father Hurley and to propose appropriate mitigation
6. Expanded NRI must be approved prior to submission of site plan. Tree #48 on NRI, a 55-inch Southern Red Oak in good condition, should be saved if possible.
7. All trails to be located outside environmental buffers
8. 610 total units approved applies to the total 62.4 acre tract, not just Phase I

March 23 2006

Derick Berlage, Esq., Chairman
and Members of the Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
8787 Georgia Ave.
Silver Spring, Maryland 20910

Re: Request for Extension of a Portion of Preliminary Plan No. 1-02068

Dear Mr. Berlage and Members:

I am the owner of the remaining 26 acre property which was approved for commercial development under Preliminary Plan No.: 1-02068 and am writing to request that you take favorable action on my application for extension of a portion of the Preliminary Plan No.: 1-02068

I am 93 years old and have not resided in Maryland since I moved to Virginia with my wife in 1968. After my wife died in 1999, I moved to Texas but travel when I can between in Florida in the Winter and some part of the summers in Madison, Virginia but traveling is not easy for me now. Several years ago, I contracted with Fairfield Residential, LLC to buy a portion of my 62 acre farm that I had owned with my wife since 1951. Fairfield prepared and filed the applications for subdivision of my farm into a residential portion and also a commercial portion but was only interested in buying the residential portion. They were able to get your approval for this and I sold them the residential portion and that left me with the 26 acres that I own in my trust.

I am not familiar with your requirements for subdividing property and did not attend the hearings when you approved the subdivision applications filed by Fairfield. When my involvement in the prior applications was requested by Fairfield, I agreed to cooperate, but I was not represented by an attorney and was not aware that the approval Fairfield received at that time would no longer be applicable to my remaining property after three years, particularly since Fairfield is still developing the residential portion of the property it purchased from me.

Since I sold the property to Fairfield, and even when they were trying to get your approval to subdivide my farm, I have been trying to sell what is now the 26 acre commercial portion. I was able to sign a contract with a purchaser, but that contract fell through after a lengthy study period. Throughout that time, I was not able to do anything with my property unless requested by the contract purchaser and they never asked, or told me, that the preliminary plan approval for my 26 acres would expire.

I only became aware that I needed to file a request for an extension when the party with whom I am currently negotiating to buy the 26 acre commercial property told me that I needed to file the extension request, which I immediately did, even though I

understand the three years had passed. I hope you will take these matters into consideration and grant my request to extend the prior preliminary plan approval relating to my 26 acre parcel so the residential and commercial portions can be developed together as was the original intention when approved the mixed use development for this property.

Very truly yours,

Vernon Martens Sr.

Vernon Martens, Sr.