



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item #

6/28/07



MEMORANDUM

DATE: June 15, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RAK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: Neil Braunstein, Planner Coordinator ^{*WB*} (301-495-4532)
Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Subdivision to create 38 lots for 19 one-family dwelling units, six townhouses, 12 duplex units, and one religious institution, including an accessory residential structure

PROJECT NAME: Layhill Overlook

CASE #: 120070490

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: PD-2

LOCATION: Located in the northeast quadrant of the intersection of Bel Pre Road and Homecrest Road

MASTER PLAN: Aspen Hill

APPLICANT: Aspen Hill Estates, LLC

ENGINEER: Patton, Harris, Rust & Associates

ATTORNEY: Linowes and Blocher

FILING DATE: December 18, 2006

HEARING DATE: June 28, 2007

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 38 lots for 19 one-family dwelling units, 6 townhouses, 12 duplex units, and 1 religious institution, including 1 accessory residential structure. A minimum of 15% of the dwelling units must be moderately priced dwelling units (MPDUs).
- 2) Activities associated with the worship center are limited to exclude programs that would generate peak-hour vehicular trips within the weekday morning and evening peak periods, such as a weekday child daycare facility or private school. These land uses would require a separate APF review.
- 3) The applicant must comply with the specifications and requirements of the schematic development plan approved as part of Local Map Amendment case G-836.
- 4) The proposed development must comply with the conditions of the Preliminary Forest Conservation Plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable. Conditions include:
 - a. On-site reforestation and forest retention must total a minimum of 4.73 acres, as per Local Map Amendment case G-836.
 - b. The natural resources inventory/forest stand delineation must be revised prior to submission of the final forest conservation plan, and the forest acreage must be reconciled with the preliminary forest conservation plan. All aspects of the NRI/FSD will be rechecked and revised as necessary, including the stream valley buffer.
 - c. Approval of the final forest conservation plan consistent with the approved preliminary forest conservation plan prior to any clearing, grading or demolition on the site.
 - d. The final forest conservation plan must show a planting plan consistent with the adjacent land uses. Canopy trees must be sited a minimum of 20 feet from all proposed structures. Understory and shrub plantings may be used to the easement line.
 - e. Split rail fencing or comparable fence and permanent forest conservation signage will be required along lots 15, 21-26, and 27-32 and must be shown on the final forest conservation plan.
- 5) At time of site plan approval, noise mitigation measures must be provided on the plan such that all yard areas meet the 60 dBA L_{dn} exterior noise guidelines and all dwelling units meet the 45 dBA L_{dn} interior noise guidelines.
- 6) No clearing, grading or recording of plats is permitted prior to certified site plan approval.
- 7) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and other improvements will be determined at site plan approval. Final number of MPDUs per Condition 1 will be determined at site plan approval.
- 8) The applicant must comply with the conditions of the MCDPWT letter dated June 15, 2007, unless otherwise amended.
- 9) The applicant must comply with the conditions of the MCDPS stormwater management approval dated June 4, 2007.

- 10) The applicant must dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 11) The applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes, unless otherwise designated on the preliminary plan. All road construction must be complete and open to traffic prior to issuance of the 16th building permit.
- 12) The applicant must provide access and improvements as required by MCDPWT prior to recordation of plat(s).
- 13) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant must provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 14) The record plat must have the following note: "The land contained hereon is within an approved planned development and subdivision or resubdivision is not permitted after the property is developed."
- 15) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 16) The record plat must show a 20-foot rear building restriction line on lots 13-15, 21-26, and 27-32, unless otherwise specified on the approved site plan.
- 17) The record plat must reflect a public use and access easement over all private streets and adjacent sidewalks.
- 18) The record plat must reflect a Category I Conservation Easement over all areas of environmental/stream valley buffer and forest conservation. Prior to plat recordation, MNCPPC staff must approve any amended language to easements or agreements.
- 19) The record plat must show other necessary easements.
- 20) 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.

SITE DESCRIPTION

The subject property, shown below and in Attachment A, consists of three platted lots totaling 16.02 acres. The property is zoned PD-2. It is located in the northeast quadrant of Bel Pre Road and Homecrest Road, in the community of Aspen Hill. Two of the three existing lots are developed with one-family residences, which will be removed to accommodate the proposed subdivision. The third existing lot is developed with a worship center consisting of two buildings that total 5,355 square feet, which will be retained.

Properties north of the site contain recreational uses (a tennis club and a golf course) in the RE-2 zone. Properties south of the site contain multiple-family residences in the R-20 zone, townhouses in the R-150/TDR zone, and one-family residences in the R-150 zone. Properties east of the site contain an institutional use in the RE-2 zone and an undeveloped site in the R-200 zone. Properties west of the site contain multiple-family residences in the R-200 zone and one-family residences in the R-200 and RE-2/TDR zones.

The site is located within the Northwest Branch watershed. An unnamed tributary starts on the property in the northwestern quadrant, and crosses the northern half of the property before exiting at the eastern property line. The property is developed along the Bel Pre Road frontage with residences and a worship center. The two eastern existing lots are mostly forested, and the western existing lot has been cleared.



PRIOR APPROVALS

The Layhill Overlook property was the subject of a Local Map Amendment application (G-836), which changed the zoning of the property from RE-2 to PD-2. The Planning Board conducted a public hearing on the application on August 6, 2006, and the County Council approved the application on October 31, 2006.

Approval of the Local Map Amendment included a Development Plan that sets the development standards that are applicable to the subdivision. In addition, the approval included 13 additional textual binding elements, with which the preliminary plan must comply.

(Attachment B – County Council opinion approval Local Map Amendment G-836)

PROJECT DESCRIPTION

The application proposes to create 38 lots for 19 one-family dwelling units, 6 townhouses, 12 duplex units, and 1 religious institution, including 1 accessory residential structure. The plan also includes six open space parcels and two stormwater management parcels. The six townhouses will be moderately priced dwelling units (MPDUs). The institutional lot will contain the existing 5,355 square-foot worship center, which will be retained, and a 6,500 square-foot addition to the center. The six open space parcels will contain two play areas and forest conservation areas.

Access to the site will be from two new public street intersections with Homecrest Road, and from a private driveway intersecting Bel Pre Road to serve the worship center and the twelve duplex units. The proposed internal street network consists of three new streets, two of which will intersect with Homecrest Road. One of the new streets, labeled Road C on the preliminary plan, will provide a future connection to undeveloped properties to the east, as envisioned by the Aspen Hill Master Plan. Until the future connection of this road to new subdivisions, Road C will end at the eastern property line of the site. A temporary turn-around for fire and rescue vehicles will be provided on a portion of one of the proposed HOA-owned open space parcels, near the end of Road C. When Road C is continued onto adjacent properties, the turn-around and an associated easement will be removed from the parcel.

(Attachment C – proposed plan)

ANALYSIS AND FINDINGS

Master Plan Compliance

The Aspen Hill Master Plan makes specific recommendations for the subject property, including consolidation of parcels to facilitate an internal road network that would minimize development impacts on the environmentally sensitive Bel Pre Creek. Appendix C of the master plan includes a diagram that shows the possible layout of the internal road network and future extensions to undeveloped and underdeveloped properties to the east of the site. The proposed

preliminary plan is substantially consistent with the recommended road network and preserves the possibility of future extensions of the proposed road network. Although the master plan recommends a primary road for the first block of Road C between Homecrest Road and Road B, the master plan states that the alignments shown are for illustrative purposes only and that final design will be determined at the time of subdivision review. Because the distance between Homecrest Road and Road B is too short to provide a safe transition between a primary street on the first block and a secondary street on the remainder of Road C, the preliminary plan proposes Road C as a secondary street along its entire length. Staff finds this to be consistent with the master plan because of the statement allowing final design at time of subdivision review and the need to provide a safe road network. A secondary road will adequately serve both proposed and future development.

Further, the master plan recommends that properties at least ten acres in size be rezoned from the RE-2 zone to the PD-2 zone. The Planning Board recommended approval of such a rezoning for the subject property and the County Council approved the rezoning on October 31, 2006.

The proposed subdivision complies with the recommendation adopted in the Aspen Hill Master Plan in that it will create the road network envisioned in the master plan and is consistent with the recommendation to rezone the property from RE-2 to PD-2.

Transportation

Access to the site is proposed via two new public street intersections with Homecrest Road and one new private street intersection with Bel Pre Road. The proposed internal street network includes three new public streets, two of which will intersect with Homecrest Road. One of the new streets, labeled Road C on the preliminary plan, will provide a future connection to undeveloped properties to the east, as envisioned by the Aspen Hill Master Plan. Until this road is connected to new subdivisions in the future, Road C will end at the eastern property line of the site.

Adequate Public Facilities

According to the traffic study submitted in January 2007, the table below shows the number of peak-hour vehicular trips generated by the proposed land uses during the weekday morning and evening peak periods, 6:30 to 9:30 A.M. and 4:00 to 7:00 P.M.:

Proposed Land Uses	Number of Units	Weekday Peak-Hour Trips	
		Morning	Evening
Single-Family Units	32	30	36
Townhouse Units	6	3	5
House of Worship Expansion	N/A- Generates No Peak-Hour Trips		
Total Vehicular Trips		33	41

In the traffic study, the table below shows the resulting critical lane volume (CLV) values for the existing, background, and the total future traffic conditions. The background traffic condition includes existing traffic plus traffic generated by approved developments.

Intersection	Weekday Peak-Hour	Traffic Condition		
		Existing	Background	Total
Bel Pre Road & Beaverwood Lane	AM	876	915	916
	PM	936	991	993
Bel Pre Road & Homecrest Road	AM	1,252	1,291	1,305
	PM	842	883	901

As noted in the table, the weekday peak-hour Critical Lane Volume analysis concludes that total traffic conditions CLV at all of the study intersections are below the Aspen Hill Policy Area congestion standard of 1,500.

Therefore, staff finds that proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

Environment

Environmental Guidelines

The applicant submitted a natural resource inventory/forest stand delineation (NRI/FSD) for review and approval, which Environmental Planning staff approved on June 6, 2005. The NRI/FSD indicates 9.62 acres of existing forest, 3.2 acres of environmental buffers, and no wetlands or floodplains. The only slopes greater than 15% are located within the environmental buffers. A first order tributary of Bel Pre Creek originates and travels west-east across the middle of the property. The environmental buffers are forested except for approximately 0.2-acres, which will be forested as part of the forest conservation plan. The only encroachment into the environmental buffers is for necessary stormwater management conveyances. There are no stormwater management facilities or drywells proposed within the environmental buffer. All environmental buffers will be included in a Category I Forest Conservation Easement. If environmental buffers are changed as a result of the need to reconcile forest acreages, as discussed below, the new buffers will be included in the Category I Forest Conservation Easement and will be free of encroachment.

Forest Conservation

The approved NRI/FSD shows 9.62 acres of forest, but the conceptual preliminary forest conservation plan submitted at the time of rezoning, and further refined as part of the preliminary plan, shows 8.97 acres of forest. Although the more conservative figure of 9.62 acres was used for the forest conservation plan worksheet, this difference must be reconciled before the final forest conservation plan is submitted.

This plan proposes to remove 5.62 acres of forest as part of the development. The remaining four acres of forest will be retained and placed in Category I easements. In order to meet planting requirements, 0.61 acres of reforestation are required. The applicant has proposed 0.73 acres of onsite planting, as required by binding element 13 of the Local Map Amendment, and an additional 0.31 acres of offsite planting.

Minimum Retention

As stated in Section 22A-12(f)(2)(B) of the Forest Conservation Law, "In a planned development or a site developed using a cluster or other optional method in a one-family residential zone, on-site forest retention must be equal to the applicable conservation threshold in subsection (a)." For this property, the conservation threshold is 20%, or 3.2 acres. This property meets this requirement by retaining four acres of forest.

Binding Elements

Local Map Amendment G-836, which changed the zoning of the property from RE-2 to PD-2, includes binding elements with which the preliminary plan must comply. Binding element 13 requires the applicant to place a Category I Forest Conservation Easement over areas shown on the preliminary forest conservation plan dated July 13, 2006 for on-site reforestation and forest retention, totaling a minimum of 4.73 acres. The current forest conservation plan proposes to retain four acres and plant 0.73 acres, which meets this requirement.

The planting areas proposed by this plan include a 0.57-acre planting area along Homecrest Road. Although this area meets minimum requirements, staff would typically not support its configuration as it is isolated and surrounded by houses. However, this area was discussed as part of the rezoning case and ultimately accepted because of the desire on the part of surrounding neighborhood to have green space in this location. Other proposed planting areas are within ten feet of residential development. This closeness sets up the potential for future conflicts between trees and residential uses. For this reason, staff recommends that canopy trees not be planted within 20 feet of all proposed structures.

Noise

A noise analysis was conducted for the subject property, revealing that the proposed residential units nearest Bel Pre Road will be impacted by current and future noise generated from vehicle traffic along Bel Pre Road. The noise analysis indicates that unmitigated noise levels will range from 60 to 65 dBA Ldn for the units adjacent to Bel Pre Road, exceeding the levels recommended in the Noise Guidelines. Units along Bel Pre Road face in varying directions. There are three townhouses, units 2-4, that face Bel Pre Road. These units are rear loaded and will meet interior noise guidelines by using architectural treatments. Units 1 and 5 back to Bel Pre Road and units 31 and 32 are parallel to Bel Pre Road. These units will require external noise mitigation measures that may include fencing, and/or other structural noise treatments. The upper stories of the residential units will rely entirely upon acoustical treatment to meet the indoor noise guideline of 45 dBA Ldn. This issue will be further addressed at site plan review.

Stormwater

The MCDPS Stormwater Management Section approved a stormwater management concept for the project on June 4, 2007, which includes: on-site channel protection measures via a dry pond and flow dispersion; on-site water quality control via sand filters, bio filters, a proprietary filter with structural pretreatment, and nonstructural methods; and onsite recharge via nonstructural methods including dry wells and recharge trenches.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the PD-2 zone as specified in the Zoning Ordinance and on the approved development plan. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. In addition, the number of detached and attached dwelling units meets the requirements of the zone. Specifically, the standards of the PD-2 zone require that at least 35% of the dwelling units be one family detached, and at least 35% of the dwelling units be one family attached or townhouses; the preliminary plan proposes 53% one-family detached units and 47% one family attached and townhouse units. Further, the preliminary plan provides 46% green area, as required by a binding element of the Local Map Amendment approval, which exceeds the requirement for 30% green area required by the Zoning Ordinance. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Lot Frontage on a Private Street

Section 50-29(a)(2) of the Subdivision Regulations requires "...that individually recorded lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road." The 12 duplex units will be on individually recorded lots, and will front onto a private street. Therefore, if the Planning Board approves the preliminary plan, it must also find that the proposed private street has acquired the status of a public road. This finding must be based upon the proposed road being fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to minimum public road standards, except for right-of-way and pavement widths.

In the case of this subdivision, it is staff's opinion that the proposed street which provides frontage to the proposed individually recorded duplex lots can meet the minimum standards necessary to make the finding that it has the status of a public road. These standards, as previously applied by staff, include 20-foot pavement width, 25-foot turning radii, five-foot sidewalk width, an appropriate circulation pattern, and an appropriate paving cross-section. The road will also be placed within an easement that ensures it remains fully accessible to the public.

Compliance with Binding Elements of the Local Map Amendment

A Local Map Amendment was approved by the County Council on October 31, 2006, which changed the zoning on the property from RE-2 to PD-2. Approval of the Local Map Amendment included 13 textual binding elements with which the preliminary plan must comply. In addition, the Local Map Amendment was accompanied by a development plan that shows the development standards with which the preliminary plan must comply.

The textual binding elements that affect this subdivision are listed below:

1. The number of units will not exceed 39 (to include the existing single family residence located on the worship center property).
2. Access will be from a single point on Bel Pre Road and two points on Homecrest Road.
3. The addition to the worship center shall not exceed 6,500 square feet of gross floor area.
4. Landscaping and fencing as shown on the Development Plan along Homecrest Road (Lots 7-13) for 20' immediately adjacent to and easterly of the public right-of-way shall be maintained by the HOA. Landscaping along Bel Pre Road (Lots 1-7, 39, and Parcel G) immediately adjacent to and northerly of the public right-of-way for 20' shall be maintained by the HOA (Lots 1-7, parcel G) or the Vedanta Center of Greater Washington, DC (Lot 39).
5. All access points shall be maintained free and clear of any sight distance obstructions located on subject property.
6. There will be a maximum of 7 dwelling units along Homecrest Road.
7. To help ensure compatibility with the surrounding neighborhood, the rear of the homes along Homecrest Road will be designed and finished with additional architectural elements typically found on building fronts, including double hung windows with circle tops, and additional moldings around windows and doors.
8. There will be a minimum of 6 dwelling units fronting master planned Road C. This does not count any side yards for homes fronting on Road B or Homecrest Road.
9. To ensure compatibility with the surrounding neighborhood, no detached sheds or outbuildings are permitted in the rear yards along Homecrest Road and in the rear yards of Lots 15-20. This prohibition is to be included in the HOA documents.

10. Landscaping along Homecrest Road will include larger caliper hardwood and evergreen trees and will emphasize native species and avoid plants on the Maryland State Invasive Species List.
11. To meet the community identification recommendation of the Aspen Hill Master Plan, the development will include "Layhill" in its name.
12. Land dedication and construction of Homecrest Road and Road C are to be in compliance with the recommendations of the Aspen Hill Master Plan.
13. Applicant to place Category I Conservation Easement on areas shown on the Preliminary Forest Conservation Plan dated July 13, 2006 for on-site reforestation and forest retention totaling a minimum of 4.73 acres.

Staff's review of the preliminary plan demonstrates that it is in compliance with all applicable binding elements. (Some elements, by their nature, can only be complied with at the time of site plan approval, construction, or occupancy of the subdivision.) A summary of this review is included in attached Table 2.

Workforce Housing

Chapter 25B of the Montgomery County Code and Section 59-A-6.18 of the Montgomery County Zoning Ordinance require that subdivisions include workforce housing as stated in the specific requirements for each zone. The proposed subdivision, however, does not include workforce housing because it is exempt from that requirement for two reasons. First, the residential density regulations for the PD-2 zone, specified in Section 59-C-17.14, state that workforce housing must be provided in subdivisions with a residential density of 40 units per acre or higher, but the proposed subdivision has a density of 2.4 units per acre. Second, the ordinance that enacted the workforce housing requirements specifically exempts any development that results from an application for a local map amendment, development plan, project plan, preliminary plan, or subdivision plan filed before December 1, 2006, and the local map amendment for this project was filed on March 3, 2005. Therefore, staff finds that the proposed subdivision is not required to provide workforce housing.

Citizen Correspondence and Issues

On January 19, 2007, the applicant notified 44 adjacent and confronting property owners and 56 citizens associations that the Layhill Overlook Preliminary Plan had been filed with the MNCPPC and that it was under review. On June 15, 2007, staff sent notice of the public hearing to these parties. We have not received any letters of concern regarding the application as of the date of this staff report.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance, and comply with the recommendations of the Aspen Hill Master Plan.

Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

Attachment A – Vicinity Development Map

Attachment B – County Council opinion approving Local Map Amendment G-836

Attachment C – Proposed Development Plan

Attachment D – Agency Correspondence Referenced in Conditions

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Layhill Overlook				
Plan Number: 120070490				
Zoning: PD-2				
# of Lots: 20 one-family; 6 townhouse; 12 duplex; 1 institutional				
# of Outlots: 0				
Dev. Type: Residential/Institutional				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval the Preliminary Plan	Verified	Date
Minimum Lot Area	Not Specified	0.17 acres is minimum proposed for one-family lot		6/15/07
Lot Width	Not Specified	60 ft. is minimum proposed for one-family lot		6/15/07
Lot Frontage	Not Specified	60 ft. is minimum proposed for one-family lot		6/15/07
Setbacks				
Front	Not Specified ¹	Must meet minimum ¹		6/15/07
Side	Not Specified ¹	Must meet minimum ¹		6/15/07
Rear	Not Specified ¹	Must meet minimum ¹		6/15/07
Height	No higher than distance from residential zone ¹	May not exceed maximum ¹		6/15/07
Max Resid'l d.u. per Zoning	2.44 units per acre	2.4 units per acre		6/15/07
MPDUs	15%	16%		6/15/07
TDRs	N/A			6/15/07
Site Plan Req'd?	Yes			6/15/07
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street		Yes		6/15/07
Road dedication and frontage improvements		Yes	Agency letter	
Environmental Guidelines		Yes	Staff memo	6/5/07
Forest Conservation		Yes	Staff memo	6/5/07
Master Plan Compliance		Yes	Staff memo	5/29/07
ADEQUATE PUBLIC FACILITIES				
Stormwater Management		Yes	Agency letter	6/4/07
Water and Sewer (WSSC)		Yes	Agency comments	2/12/07
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	2/12/07
Well and Septic		N/a		
Local Area Traffic Review		Yes	Staff memo	6/13/07
Fire and Rescue		Yes	Agency letter	6/1/07

¹ Setbacks and maximum height will be determined by the required 59-D-3 site plan review.

Table 2: Preliminary Plan Data Compliance with Binding Elements

Plan Name: Layhill Overlook				
Plan Number: 120070490				
PLAN DATA	Binding Element Requirement	Proposed for Approval the Preliminary Plan	Verified	Date
Number of dwelling units	39 max.	38		6/15/07
Access points	1 on Bel Pre Road; 2 on Homecrest Road	1 on Bel Pre Road; 2 on Homecrest Road		6/15/07
Addition to worship center	6,500 sq. ft. max.	6,500 sq. ft.		6/15/07
Number of dwelling units along Homecrest Road	7 max.	7		6/15/07
Number of dwelling units fronting on Road C	6 min.	6		6/15/07
Category I Conservation Easement	4.73 acres min.	4.73 acres		6/15/07
Green Area	45% min.	46%		6/15/07

LAYHILL OVERLOOK (120070490)



Map compiled on June 14, 2007 at 9:52 AM | Site located on base sheet no - 219NW03

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1 inch = 600 feet
1 : 7200

Attachment B

Resolution No.: 15-1685
Introduced: October 31, 2006
Adopted: October 31, 2006

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
IN MONTGOMERY COUNTY**

By: County Council

**SUBJECT: APPLICATION NO. G-836 FOR AMENDMENT TO THE ZONING ORDINANCE MAP,
Scott Wallace, Attorney for Owner Vedanta Center of Greater Washington D.C., Inc. and
Owner/Contract Purchaser J. Kirby Development, L.L.C., OPINION AND RESOLUTION
ON APPLICATION.**

Tax Account Nos. 13-00982556, 13-00966534, 13-00961315

OPINION

Application No. G-836, filed on March 3, 2005 by Applicants J. Kirby Development, LLC and Vedanta Center of Greater Washington, D.C., Inc., requests reclassification from the RE-2 Zone (residential, one-family, two-acre minimum lot size) to the PD-2 Zone (Planned Development, two dwelling units per acre) of 16 acres of land located at 2929, 3001 and 3031 Bel Pre Road in Silver Spring, Maryland, in the 13th Election District. The property is identified as Part of Lots 3, 4 and 5 of the "Homecrest" subdivision, recorded in Plat Book 25, Plat 1586. As required under the PD Zone, the application was accompanied by a Development Plan with detailed specifications related to land use, density, development standards and staging. Pursuant to Code § 59-D-1.11, development under the PD Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the PD Zone.

The Hearing Examiner recommended approval of the proposed rezoning on grounds that the proposed development would be in substantial compliance with the applicable master plan, would comply with the purposes, standards and regulations of the PD-2 Zone, would provide for a form of development that will be compatible with existing land uses in the surrounding area and would serve the public interest. The Montgomery County Planning Board (the "Planning Board") and its Technical

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Staff made similar recommendations. The District Council agrees, and incorporates herein the Hearing Examiner's Report and Recommendation dated October 10, 2006.

The subject property consists of approximately 16 acres of land located in the northeast quadrant of the intersection of Bel Pre Road and Homecrest Road, roughly midway between Bel Pre Road's intersections with Georgia Avenue (to the west) and Layhill Road (to the east). The three lots comprising the subject property form a nearly square tract of land, with approximately 867 feet of frontage on Bel Pre Road, a five-lane undivided arterial road with an 80-foot right-of-way, and 800 feet of frontage on Homecrest Road, a narrow, two-lane, residential primary street. Confronting to the south, across Bel Pre Road, are three- and four-story apartments and townhouses. Confronting to the west, across Homecrest Road, are Aspenwood Senior Living Community, located at the northwest corner of Bel Pre and Homecrest Roads, which provides assisted living for senior adults and special needs care; three single-family homes; and, diagonally to the northwest, Homecrest House, a senior housing and assisted living facility. To the east, the subject property abuts the property of the Wheaton Moose Lodge, which is occupied by a social lodge and is about half wooded. To the north, the subject property abuts the Aspen Hill Club (the "Aspen Hill Club"), a large complex of indoor and outdoor sports facilities with very large tennis bubbles and other buildings, plus extensive parking lots.

Lot 3, at the east end of the site, is mostly wooded and has a one-story brick house, a carport and a driveway off of Bel Pre Road. Lot 4, in the center, is also mostly wooded. It is occupied by the Vedanta Center, a worship center consisting of a concrete and stone building with a one-story wing and a two-story wing, which is used for congregation gatherings and as a home for resident monks; a small, brick, 1 ½ story guest house; a paved driveway off of Bel Pre Road; and a gravel parking area. Lot 5, at the west end of the site, is mostly grassy, with a one-story brick house, a concrete block garage, a metal shed and driveway access from Homecrest Road.

The subject property is gently to moderately sloping. It contains approximately 9.62 acres of forest, with two major forest stands rated good quality. The property contains no flood plains,

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but a small stream known as Bel Pre Creek flows through the northeast part of the property. As a result, a substantial portion of the combined property is undevelopable stream valley buffer.

The surrounding area for this application consists, roughly, of the Bel Pre Road Area described in the *1994 Approved and Adopted Aspen Hill Master Plan* (which extends from Bel Pre Road on the south to Homecrest Road on the west, the property line of Argyle Country Club on the north and the Bel Pre Square Townhouses, across from North Gate Drive, on the east), plus properties that are either adjacent or directly or diagonally confronting.

The surrounding area contains a mix of uses including three- and four-story apartment buildings, senior housing including assisted living, townhouses, single-family detached homes, churches, a large sports facility, a social lodge and a country club. The zoning pattern is a mixture of RE-2, RE-2/TDR, R-200 and R-150 zoning, the product of multiple individual rezonings that occurred mostly between 1965 and 1980.

The subject property was classified under the R-A (Agricultural Residential) Zone in the 1958 County-wide comprehensive rezoning. The R-A Zone was redesignated the RE-2 Zone by text amendment in 1973, and the subject property's zoning has remained the same since then. The area was recommended for reclassification to the R-200 Zone in the *1970 Aspen Hill Master Plan*, but no sectional map amendment followed. RE-2 zoning on the subject property was confirmed by Sectional Map Amendment G-709 in 1994, as recommended in the 1994 Master Plan.

Lots 3 and 5 of the subject property are each developed with a single-family home, while lot 5 has been the site of the Vedanta Center for eight or nine years. The Center has ties to Indian spiritual traditions, but considers itself a universal, non-denominational movement, accepting people from all religions and different spiritual paths. The Center teaches spiritual principals and practices including meditation, and tries to maintain a serene atmosphere.

The Applicant proposes expansion of the Vedanta Center's facilities and the coordinated development of a residential community with a total of 39 dwelling units: 20 new single-family detached homes, 12 new single-family, semidetached duplex units, six new single-family attached units to be

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marketed as moderately-priced dwelling units ("MPDUs"), and the existing Vedanta Center guest house. The largest grouping of homes would be at the west end of the site, near Homecrest Road, with 14 detached homes and six townhouses. The other six detached homes would be in the northeast corner of the site, overlooking the stream valley buffer. The 12 duplex units would be in the southeast corner of the site, south of the stream valley buffer and east of the Vedanta Center parking lot. The preliminary bedroom calculation indicates that the single-family detached units would have four bedrooms, the townhouses would have two bedrooms with an optional third bedroom, and the duplexes would have three bedrooms.

The detached homes at the western end of the site are shown facing each other across a main road (Road B) and a perpendicular entrance road (Road A). The townhouse MPDUs are shown grouped in a single location on Road B, in two blocks of three units each, backing onto Bel Pre Road. Road A is shown running perpendicular to Homecrest Road, separating the Homecrest Road frontage into two parts. The visually-prominent location at the corner of Homecrest and Bel Pre Roads, south of Road A, would be occupied by three detached homes. On the rest of the Homecrest Road frontage, north of Road A, two detached homes are shown at each end of the block, with a proposed 0.63-acre reforestation area between them. The reforestation area would be an "artificial" forest, to be created from scratch on what is now a grassy field. It would provide a significant visual break in the line of homes. In addition, the Applicant has committed to creating a permanent, 20-foot landscaped buffer strip between these homes and the new Homecrest Road right-of-way, as well as installing a sidewalk and street trees.

The other side of Road B is shown with a row of seven single-family detached homes, interrupted by a recreation area and an open play area overlooking the stream valley buffer. The northern end of Road B is shown connecting to "Road C," along the northern property line, which would provide a second point of access off of Homecrest Road.

The existing Vedanta Center worship building, measuring approximately 4,300 square feet and located roughly in the middle of the site, would be retained. In addition, a new, 6,500-square

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foot addition would be built onto the rear wall of the existing worship building, with a landscaped courtyard between the old and new structures. The new building would provide a larger worship space and a cellar to serve refreshments, which is lacking in the current facility. The Center plans to use the auditorium in the existing building as a multi-function meeting space. The architecture for the new building is based on a well-known Indian Hindu temple, incorporating a blend of traditional Indian and European styles. The maximum height would be 24 feet, plus an additional 20 feet for cupolas and domes. The new Vedanta Center building would face east, towards a wooded area abutting the stream valley buffer. It would be partially obscured from view from Bel Pre Road by the existing Vedanta Center buildings.

The Development Plan allocates the land immediately south of the Vedanta Center, between the Center and Bel Pre Road, to an 85-space parking lot for the Vedanta Center. East of the parking lot, in the southeast corner of the site, the Development Plan provides for 12 duplex units.¹ Each duplex unit is shown with a one-car garage and one driveway space. The plan shows a sidewalk connecting Bel Pre Road to the duplex units, and continuing on to link the duplexes to sidewalks within the Vedanta Center facility, and from there to a path leading along the stream valley buffer to proposed recreation areas on the west side of the site and, eventually, Homecrest Road.

The duplex units, as shown on the Development Plan, would be separated from the Wheaton Moose Lodge property by a forested area approximately 77 feet deep, which is to be conveyed to the Homeowner's Association ("HOA") for the development and protected by a Category One Conservation Easement. The distance between the lodge structure and the closest residential unit would be approximately 110 feet. To the west, the duplex units would be separated from the Vedanta Center parking lot by the shared access road and a 30-foot landscaped area, in addition to the backyards of the units themselves. To the north, they would abut a dry stormwater management pond

¹ Testimony from a representative of the Vedanta Center indicated that these units would be under the Vedanta Center's ownership, and that the Center hopes to sell the units with covenants restricting their occupancy to members of the Vedanta Center community. A question was raised as to the legality of such covenants, which might be considered discriminatory under federal, state and/or county law. The District Council is not making a judgment on the legality or appropriateness of any such covenants by acting on this rezoning request.

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and a forested area. To the south, the buffering shown on the Development Plan is somewhat different for the two rows of units. The western row of units, closer to the Vedanta Center, is separated from Bel Pre Road by the access road that would serve the duplex units, plus a landscaped strip about 40 feet wide. The eastern row of units, closer to the Wheaton Moose Lodge property, is separated from Bel Pre Road by an existing forested area about 65 feet deep.

As noted above in connection with the duplex units, the proposed Development Plan provides for sidewalks and pathways that would connect the residential areas of the development with each other, the Vedanta Center, a partial trail along the stream valley buffer, the on-site recreation areas and the abutting streets. The Development Plan shows one point of access on Bel Pre Road, for the Vedanta Center and the 12 duplex units. The residential areas along Homecrest Road and in the northeast corner of the site would be accessed via two points of entry on Homecrest Road, connecting to Roads A, B and C.

With regard to phasing, the Development Plan specifies that all development steps may occur in any order or simultaneously, provided that "construction of the 6 MPDU townhouses will commence no later than commencement of the 18th market rate unit." Ex. 60(a).

Pursuant to Code § 59-D-1.11, development under the PD Zone is permitted only in accordance with a development plan that is approved by the District Council when the property is reclassified to the PD Zone. This development plan must contain several elements, including a land use plan showing site access, proposed buildings and structures, a preliminary classification of dwelling units by type and number of bedrooms, parking areas, land to be dedicated to public use, and land intended for common or quasi-public use but not intended to be in public ownership. Code §59-D-1.3. The Development Plan is binding on the Applicant except where particular elements are identified as illustrative or conceptual. The Development Plan is subject to site plan review by the Planning Board, and changes in details may be made at that time. The principal specifications on the Development Plan – those that the District Council considers in evaluating compatibility and compliance with the

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zone, for example – may not be changed without further application to the Council to amend the Development Plan.

The principal component of the Development Plan in this case is a document entitled Development Plan, Exhibit 112(a). Exhibit 112(a), satisfies the requirements of Code § 59-D-1.3 by showing access points, approximate locations of existing and proposed buildings and structures, preliminary classification of dwellings by number of bedrooms, parking areas, intended right-of-way dedications for the three internal roads and Homecrest Road, and areas intended for common use but not public ownership (recreation areas and stream valley). The Development Plan specifies that lot sizes, shapes and building locations will be approximately as shown, with exact sizes, shapes and locations to be determined during Preliminary Plan and Site Plan proceedings. The intent of this language is to allow for minor shifts in lot lines and building locations while ensuring that if this project goes forward, the general locations shown for detached, duplex and townhouse units will not change in the Applicant's Preliminary Plan and Site Plan submissions. The Development Plan has one minor error that will have to be corrected on the Development Plan submitted for certification: it identifies Lot 3 under its prior, rather than current, ownership.

The Development Plan specifies (in language that is not described as illustrative, and therefore is binding) how the project would satisfy the development standards for the zone. This includes a maximum height for residential buildings of 40 feet, and a maximum height for the new worship center of 24 feet, plus 20 feet more for cupolas and domes. These provisions also specify a maximum of 39 dwelling units and memorialize a commitment to preserve at least 45 percent of the gross land area as green area, which is considerably higher than the 30 percent required in the PD Zone. Parking is planned to exceed the Zoning Ordinance requirement, with (preliminarily) four spaces per unit for detached homes (two garage, two driveway), two spaces for townhouses and duplex units (one garage, one driveway), and 85 spaces for the Vedanta Center.

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The Development Plan also contains additional, textual binding elements that memorialize a variety of commitments the Applicant has made to the Planning Board and the community, as summarized below:

- Maximum of 39 units, including existing house on Vedanta Center property.
- Access from a single point on Bel Pre Road and two points on Homecrest Road.
- Worship center addition not to exceed 6,500 square feet gross floor area.
- HOA to maintain landscaping and fencing shown on Development Plan along Homecrest Road in first 20 feet east of right-of-way along Lots 7-13, and first ten feet east of right-of-way along reforestation area, Parcel I. HOA or Vedanta Center to maintain landscaping along Bel Pre Road in first 20 feet north of right-of-way.
- All access points to be maintained free and clear of any sight distance obstructions on subject property.
- Maximum of seven dwelling units along Homecrest Road.
- To help ensure compatibility, rear of homes along Homecrest Road to be designed and finished with additional architectural features typically found on building fronts, including double hung windows with circle tops, and additional moldings around windows and doors.
- Minimum of six dwelling units fronting on Road C.
- No detached sheds or outbuildings permitted in rear yards along Homecrest Road or rear yards of Lots 15-20.
- Landscaping along Homecrest Road to include larger caliper hardwood and evergreen trees, emphasize native species and avoid plants on Maryland State Invasive Species List.
- To meet community identification recommendation of Aspen Hill Master Plan, development will include "Layhill" in its name.

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- Land dedication and construction of Homecrest Road and Road C to be in compliance with recommendations of Aspen Hill Master Plan.
- Applicant to place Category I Conservation Easement on minimum 4.73 acres of reforestation and forest retention shown on Preliminary Forest Conservation Plan dated July 13, 2006.

The District Council finds that the Development Plan submitted with this application satisfies all the requirements for a development plan under Code §59-D-1.61(a)-(e). Each of the required findings is addressed below.

§59-D-1.61(a): master plan consistency. In the present case, both the Planning Board and Technical Staff found that the proposed development conforms to the recommendations of the 1994 Approved and Adopted Aspen Hill Master Plan (the "Master Plan"). The Hearing Examiner agrees.

The Development Plan is in compliance with the Master Plan's broad goals related to housing, the environment, and community identity and design. The three unit types proposed offer a choice of housing types for people of varying incomes and lifestyles. The most significant natural resources on the site would be fully preserved within the stream valley. The Master Plan's goal with regard to community identity and design is to "[p]rovide for attractive land uses that encourage opportunity for social interaction and promote community identity." Master Plan at 22. The Development Plan would serve this goal by creating a well-planned community, with uniform landscaping and fencing along Homecrest Road, an architecturally interesting worship building serving as a "visual accent", and a network of sidewalks and paths connecting the various residential areas with each other, the worship center, the recreation area, the partial stream valley trail and neighboring sidewalks.

The site layout might better meet the Master Plan's goal of increasing community interaction and reducing the social and physical isolation of portions of the community if the MPDUs were distributed in more than one location on the site, rather than located together at one end of the main internal road. However, the Applicant does not consider this approach feasible for such a small

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development. Moreover, the residents of the MPDUs would have neighbors in detached homes on three sides, and there is every reason to expect they would be fully integrated into the life of this small community. The District Council finds that the Development Plan substantially complies with the Master Plan's community identity goals.

The Development Plan also complies with the specific recommendations made for the Western Bel Pre Road Area: PD-2 zoning for consolidations of ten acres or more; protection of Bel Pre Creek and the stream buffer areas; and consolidated, on-site storm water management.

A central element of the Master Plan's vision for the development of the subject property and nearby parcels was a road along the northern property line of the site, with access from Homecrest Road. This road is recommended as part of a network of internal roadways to reduce the need for curb cuts on Bel Pre Road, reduce the environmental impacts of development on Bel Pre Creek, and provide a way for new development to enter busy Bel Pre Road at a signalized intersection. The Master Plan further suggested that if the proximity of this road to the existing entrance for the Aspen Hill Club is deemed to be unsafe, access to the two properties should be combined on the new road. The Applicant proposes to construct Road C in the location indicated in the Master Plan, but the right-of-way shown on the Development Plan is slightly smaller than recommended in the Master Plan.² The Hearing Examiner, Planning Board and Technical Staff found, nonetheless, that the proposed Development Plan substantially complies with the Master Plan. Moreover, the unrefuted testimony of the Applicant's traffic planner is that the right-of-way widths proposed on the Development Plan would be adequate to handle the expected traffic. The District Council finds that the departure from the Master Plan's specific right-of-way recommendations is not sufficient to derail this application's substantial compliance with the Master Plan.

The Master Plan also recommends the creation of a "green corridor" along Bel Pre Road. The Applicant contends that it would satisfy this recommendation by planting trees along its Bel Pre

² The Master Plan recommended a primary residential road (70 foot right-of-way) from Homecrest Road to a point where access might have to be provided for the Aspen Hill Club, and a secondary road (60-foot right-of-way) thereafter. The Development Plan provides for 60 feet of right-of-way from Homecrest Road to the possible Aspen Hill Club access point, and 50 feet thereafter.

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Road frontage, even though they would not separate the sidewalk from the road. The District Council considers the Applicant's partial compliance with the green corridor recommendation sufficient to support a finding of substantial compliance with the Master Plan, at least for purposes of zoning stage review. However, the District Council would consider it preferable, from the standpoint of both safety and aesthetics, for the Applicant to satisfy the desire expressed by several community members for street trees separating the sidewalk from the road. The District Council would also find such an approach to be more consistent with the Master Plan.

Based on the preponderance of the evidence, the District Council finds that the proposed development would be in substantial compliance with the use, density and other recommendations of the Master Plan. The evidence also supports the conclusion that the Development Plan does not conflict with any other county plans or policies, or the capital improvement program. It would further county housing policy by creating diverse housing options, including affordable housing. The evidence demonstrates that the proposed development would satisfy the requirements of Local Area Transportation Review, would have minimal impact on public school capacity and, as a consequence, would not be inconsistent with the county Growth Policy.

§59-D-1.61(b): purposes of the zone; maximum safety, convenience and amenity of residents; and compatibility with adjacent development.

1. **The Purpose Clause**

The purpose clause for the PD Zone contains a number of goals and objectives, all of which are satisfied by the instant application. The District Council's findings as to each paragraph of the purpose clause are set forth below.

First paragraph: Master Plan implementation. As discussed under (a) above, the proposed development would substantially comply with the recommendations and objectives of the Master Plan. It would also integrate mutually compatible uses and provide more efficient circulation, access and stormwater management than could be achieved under the current conventional zoning, as well as better environmental protection and amenities.

Second paragraph: social and community interaction, distinctive visual character, balanced mixture of uses. The proposed development would achieve these objectives in several ways. The development would have a distinctive visual character because a worship center would occupy a prominent central location, because much of the site would consist of open stream valley buffer, and because of the unusual architecture proposed for the new Vedanta Center building. A network of pedestrian sidewalks and trails would facilitate social and community interaction by connecting the residential areas with each other, the Vedanta Center, the recreation areas at the west end of the site, a path along part of the stream buffer, and adjoining public sidewalks. The subject site is in relatively close proximity to shopping, parks and public transportation, and testimony indicated that there is a substantial amount of pedestrian activity, despite marginally adequate sidewalks, providing opportunities for interaction between residents of the proposed development and the surrounding community. In addition, the expansion of the Vedanta Center would enhance opportunities for fellowship and community among its members and visitors, who would be part of the larger community as well.

Most of the homes would face other homes, further encouraging social interaction and a sense of community within the development. One possible flaw in the plan is that the decision to face all of the homes inward, with their rear facades toward the roadways, tends to cut off opportunities for interaction between residents of the proposed community and those in the surrounding area. It might have been preferable, from a public interest standpoint, to strike the balance in favor of integration with the larger community, given that the three homes on the west side of Homecrest Road have few neighbors. The record suggests that this decision was made at the urging of Technical Staff, who apparently felt that an internal sense of community was more important. However, this issue is not enough, in the District Council's view, to undercut the conclusion that overall, the proposed development would satisfy this element of the purpose clause.

The proposed development does not include commercial uses due to its size, but it does include a mix of residential use types, recreational opportunities and a religious use. Technical Staff

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indicates that commercial uses would not be appropriate for a development of this size, and the District Council agrees. Based on the preponderance of the evidence, the District Council concludes that the development depicted on the proposed Development Plan would satisfy this element of the purpose clause.

Third paragraph: broad range of housing types. The proposed development would provide a broad range of housing types, including two-to-three bedroom MPDUs, three-bedroom duplex units and four-bedroom single-family detached homes. These options would attract residents with varying lifestyles and income levels. The development would broaden the mix of housing types in the surrounding area, in which residential uses other than single family detached homes currently dominate.

Fourth and fifth paragraphs: trees, grading and open space. The proposed development would preserve four acres of existing forest, mostly in the stream valley, and would create a reforestation area measuring 0.63 acres. The layout of the Development Plan would minimize grading by preserving the stream valley buffer and existing Vedanta Center buildings, and through efficient layouts making use of the existing topography. Contrary to statements made by some community members, there is no evidence of record to suggest that the Applicant intends to clear and re-grade the entire site. On the contrary, significant forested areas are to be preserved, particularly in the stream valley.

Both residents of the proposed development and visitors to the Vedanta Center would be able to enjoy the visual beauty of the stream valley from the trail, the sidewalks and the recreation areas at the west end of the site. The stream valley would provide a lovely vista for the six homes proposed at the northeast end of the site. The stream valley, which is the main open space area, would not be readily accessible to the general public because it is set back from the roads. Area residents might be able to enjoy the trail along the stream buffer by parking in the Vedanta Center parking lot, which by all accounts is empty much of the time, or on Road B. In addition, the preserved stream

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valley on the subject property would continue to form part of and support the health of the larger stream valley that runs through the area, which serves as a valuable amenity for all area residents.

Additional open space is shown in the reforestation area proposed along Homecrest Road. This area would be a visual amenity for area residents and visitors, particularly as it matures. The District Council agrees with Technical Staff that the PD Zone's open space requirement is geared more towards large projects, and that for a development of this size, the open space and access shown is adequate.

Sixth paragraph: pedestrian networks. Pedestrian activity would be encouraged by a network of pedestrian sidewalks and trails linking the residential areas with one another, the worship center, the recreation areas on Road B, the partial stream valley trail and the nearby public sidewalks. The subject site is located within one block of bus stops on both Bel Pre and Homecrest Roads. The availability of pedestrian sidewalks and paths separate from roads, and the proximity to public transportation, would both reduce reliance on the automobile.

Seventh paragraph: scale. The PD Zone encourages, but does not require, development on a large scale. The proposed Development Plan would consolidate three parcels for a total of 16 acres of land. While not large in an absolute sense, the proposed development would aggregate enough parcels to satisfy the Master Plan's specific size recommendation for PD-2 zoning, with enough to space to permit three different unit types and the efficiency of joint storm water management and road connections.

Eighth paragraph, first part: maximum safety, convenience and amenity. The evidence demonstrates that the proposed development would provide safe and convenient roadways, sidewalks and pathways, provided that the necessary steps are taken to assure adequate sight distances for the Bel Pre Road entrance and the access to Road C. On Bel Pre Road, adequate sight distance likely would require cutting back vegetation and moving a utility pole by a few feet. At the access point to Road C, ensuring a safe condition might require providing access to the Aspen Hill Club from Road C.

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The sidewalk along Bel Pre Road would undoubtedly be safer and more attractive with a landscaped strip separating it from the roadway. However, in light of other features of the plan, the District Council does not consider this step essential to satisfying the purpose clause.

Residents of the homes on the west side of the site would have access to Bel Pre Road at a signalized intersection. Residents of the duplex units and visitors to the Vedanta Center would not have that advantage, but their shared access point would improve safety on Bel Pre Road by reducing the number of curb cuts along this stretch of land from two to one. The proposed pathways, partial stream valley trail and recreation areas represent amenities that would be available to residents of the development and to any residents of the larger community who care to enter the development to view the stream valley. The reforestation area on Homecrest Road would be an additional visual amenity for area residents and visitors.

Eighth paragraph, second part: compatibility. The District Council finds that the proposed development would be compatible with existing uses in the surrounding area. The proposed uses -- residential and worship center -- are clearly compatible with the surrounding area, which is used primarily for residential purposes. For the reasons discussed below, the District Council finds the Development Plan to be compatible with the surrounding area, as well.

The duplex units would be adequately buffered from the Moose Lodge building by 77 feet of forested land, which would provide substantial visual and noise screening. Across Bel Pre Road, the duplex units would confront townhouses that are built at a density of five dwelling units per acre, significantly higher than the 2.4 d.u./acre proposed for the subject site overall. The townhouses and single-family detached home with frontage on Bel Pre Road, in the southwest corner of the site, would confront townhouses built at five d.u./acre, and three-story multi-family units with a density of approximately 22 d.u./acre. Moreover, the dwellings across Bel Pre Road are set back a significant distance from the street, so the impact of the new development likely would not be substantial. The homes in the northeast corner of the site would abut the wooded portion of the Moose Lodge property

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to the east. To the north, they would confront the Aspen Hill Club, which has a substantial level of on-site activity and, in all likelihood, would not be affected by these homes.

The homes proposed along Homecrest Road are the most visible, with their long street frontage. They play a key role in the visual impact of the proposed development on the intersection and on Homecrest Road. The Development Plan proposes a total of seven detached homes along Homecrest Road, arranged on either side of a 0.63-acre reforestation area. They have setbacks from the face of curb varying from 56 feet to 80 feet, and the distance between them varies from 12 feet to 43 feet. These seven homes would be across the street from the Aspenwood Senior Living Community and three single-family detached homes, all of which have substantial front building setbacks. The three single-family homes would be directly across from the reforestation area and the four homes flanking it. The reforestation would be visually prominent because it would occupy roughly the same amount of street frontage as the four houses surrounding it.

The seven dwellings along Homecrest Road would be broken up by Road A and the reforestation area, allowing enough room for each house to have a substantial amount of open space on at least one side. For three houses that space is occupied by a side yard and a road, and for the other four it is green space. In addition, these seven homes would have varying setbacks, rather than presenting a straight, unbroken line of houses. The visual impact of the houses along Homecrest Road would be softened by 20 feet of landscaping, in addition to a sidewalk and street trees. The Applicant has committed to including larger caliper hardwood and evergreen trees in this landscaping, to ensure an immediate visual impact. The Applicant has also committed to design and finish the rears of homes facing Homecrest Road with architectural features normally found on building fronts, such as double-hung windows with circle tops, and additional moldings around doors and windows.

The record suggests that the homes the Applicant proposes would be taller and of a different architectural style than the three homes across the street. However, compatible need not mean "the same." With implementation of the present Development Plan, the three homes across the street would face four homes and a substantial reforestation area, all bordered by a 20-foot landscaped

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buffer, a sidewalk and a row of street trees. A view of trees and houses would be a change from the current open vista of green fields, but with the environmental constraints on this site, it is difficult to imagine how it could be developed at the density called for in the Master Plan – two dwelling units per acre – without materially changing that vista. As the Master Plan makes clear, the purpose of recommending PD zoning for the subject property was to provide an incentive for consolidation of lots to attain the benefits that the development proposed here would provide, including efficient road access with fewer curb cuts, joint storm water management and more effective environmental protection.

A compatibility determination also must take into account the entire surrounding area, not just the three single-family homes across from the subject site. The evidence suggests that this neighborhood has more than its share of special exceptions. Nonetheless, it would be inappropriate, in the context of a rezoning case, to ignore the existence of those special exceptions. The surrounding area in this case is not predominantly a neighborhood of single-family, detached homes. It has a mix of single-family, multi-family and institutional residential uses, plus the Aspen Hill Club. The buildings in the surrounding area, and even in the immediate vicinity of the subject site, vary from one story to five stories, and several of them have very large parking lots that create a decidedly non-rural impression. In this context, the 40-foot homes proposed by the Applicant would blend well with their surroundings.

The District Council sees no justification to impose on this Development Plan, as requested by the Aspen Hill Club, a requirement for the type of berms and landscape buffering that were required for the Aspen Hill Club and other special exceptions in the surrounding area. Special exceptions are typically required to install buffers where they abut single-family residential property, to protect residential uses from the adverse effects of non-residential special exceptions. The level of activity, noise and traffic impacts of non-residential uses are different, and typically more intense, than those of single-family residential uses. Accordingly, the extensive berms, setbacks and screening surrounding several of the nearby special exceptions are appropriate for those uses, but are not necessary for a residential community.

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For all of the reasons stated above, the District Council concludes that the proposed rezoning and development would be compatible with existing land uses in the surrounding area.

Ninth paragraph: three findings. The purpose clause states that the PD Zone "is in the nature of a special exception," and shall be approved or disapproved based on three findings:

- (1) the application is or is not proper for the comprehensive and systematic development of the county;
- (2) the application is or is not capable of accomplishing the purposes of this zone; and
- (3) the application is or is not in substantial compliance with the duly approved and adopted general plan and master plans.

Based on the preponderance of the evidence and for the reasons stated above, the District Council concludes that present application is proper for the comprehensive and systematic development of the County; is capable of accomplishing all of the purposes of the zone; and is in substantial compliance with the Master Plan.

2. Standards and Regulations of the Zone

The standards and regulations of the PD-2 Zone are summarized below, together with the grounds for the District Council's conclusion that the proposed development would satisfy these requirements.

Section 59-C-7.121, Master Plan Density. Pursuant to Code §59-C-7.121, "no land can be classified in the planned development zone unless such land is within an area for which there is an existing, duly adopted master plan which shows such land for a density of 2 dwelling units per acre or higher." The subject property is recommended in the Master Plan for PD-2 zoning, provided there is a consolidation of at least ten acres of land. The subject property represents an assemblage of approximately 16 acres, so this requirement is satisfied.

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Section 59-C-7.122, Minimum Area. Code §59-C-7.122 specifies several criteria, any one of which may be satisfied to qualify land for reclassification to the PD Zone. The subject application satisfies the last of these criteria, which states the following:

That the Property is recommended for the PD zone in an approved and adopted master or sector plan and so uniquely situated that assembly of a minimum gross area to accommodate at least 50 dwelling units is unlikely or undesirable and the development of less than 50 dwelling units is in the public interest.

The subject property is recommended for the PD Zone in the Master Plan. It is not large enough, at 16 acres with a density of two units per acre, to accommodate 50 dwelling units. Applicant J. Kirby Development represented that its efforts to negotiate with the adjacent Wheaton Moose Lodge for additional land at the rear of the Moose Lodge parcel were unfruitful. A representative of the Moose Lodge confirmed this, stating that the Lodge rejected a request for negotiations. The adjacent property to the north is fully developed and used by the Aspen Hill Club, and the other two boundaries of the property abut roadways. The evidence indicates that development of the subject property with less than 50 units would be in the public interest, as it would allow implementation of the Master Plan's goals for this property. Accordingly, the District Council finds that this requirement is satisfied.

Section 59-C-7.131, Residential Uses. Pursuant to Code §59-C-7.131, all types of residential uses are permitted, but parameters are established for the unit mix. A PD-2 development with less than 50 units must have at least 35 percent single-family detached units and at least 35 percent townhouse or single-family attached units. The proposed Development Plan provides for 54 percent single-family detached units and 46 percent single-family attached or townhouse units, satisfying this requirement.

Section 59-C-7.132, Commercial Uses. Commercial uses are permitted but not required under the PD Zone. Parameters established for commercial uses are not applicable to the subject application, which proposes no commercial uses.

Section 59-C-7.133, Other Uses. Noncommercial community recreational facilities for the use of residents, such as the recreation area on Road B and the trail along part of the stream valley, are permitted in the PD Zone. The PD Zone also permits any nonresidential, noncommercial

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use at the discretion of the District Council, on a finding that such use is compatible with the planned development and satisfies the requirements of Section 59-C-7.15. The Vedanta Center may be considered a nonresidential, noncommercial use, and the District Council considers it compatible with the proposed development. It would provide a visual amenity, possibly a worship center for some residents, and a quiet neighbor. As discussed below, the specific requirements of Section 59-C-7.15 also would be satisfied.

Section 59-C-7.14, Density of Residential Development. The Zoning Ordinance provides the following direction for the District Council in considering a request for the PD Zone (§ 59-C-7.14(b)):

The District Council must determine whether the density category applied for is appropriate, taking into consideration and being guided by the general plan, the area master or sector plan, the capital improvements program, the purposes of the planned development zone, the requirement to provide [MPDUs], and such other information as may be relevant.

The density category applied for, PD-2, is the lowest density available in the PD Zones, and is recommended in the Master Plan. All of the evidence indicates that this density category is appropriate for the site.

Section 59-C-7.15, Compatibility. This section requires that a proposed development be compatible internally and with adjacent uses. It also establishes minimum parameters for setbacks and building height that are designed to promote compatibility. As discussed above, the District Council finds that the proposed development would be compatible with existing development in the surrounding area. The application also satisfies the specific setback and building height provisions, as detailed below.

Section 59-C-7.15 of the Zoning Ordinance states that where land classified under the PD Zone adjoins land for which the area master plan recommends a one-family detached zone, no building other than a one-family detached residence may be constructed within 100 feet of such adjoining land, and no building may be constructed at a height greater than its distance from such adjoining land. The Development Plan specifies a maximum height of 40 feet for all residential units, and notes that all units are located at least 60 feet from the only adjacent land that is recommended in

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the Master Plan for single-family detached zoning, which is the Aspen Hill Club property to the north. Moreover, it is evident on the Development Plan that all units shown within 100 feet of the northern property line are single-family detached homes. The new Vedanta Center building would be over 400 feet from the northern property line. Adjacent property to the east is recommended in the Master Plan for PD-2 zoning, and to the south and west are roadways, so these limitations do not apply.

Section 59-C-7.16, Green Area. The PD-2 Zone requires a minimum of 30 percent green area. The Development Plan depicts green space of 7.3 acres, or approximately 46 percent of the site, and specifies that a minimum of 45 percent green area will be provided.

Section 59-C-7.17, Dedication of Land for Public Use. This section requires that land necessary for public streets, parks, schools and other public uses must be dedicated to public use, with such dedications shown on all required development plans and site plans. The Development Plan shows the small dedication required for the right-of-way of Homecrest Road (described by Technical Staff as about six feet deep), as well as the 50- and 60-foot dedications necessary for Road C, a 27-foot dedication for Road B, and a 26-foot dedication for Road A. No other dedications are anticipated.

Section 59-C-7.18, Parking Facilities. Off-street parking must be provided in accordance with the requirements of Article 59-E of the Zoning Ordinance. As shown on the Development Plan, the proposed project would provide more than the required number of spaces for the single-family detached units, the number of spaces required for the other residential uses, and more than the number of spaces required for the Vedanta Center.

The final two elements of finding (b), the maximum safety, convenience and amenity of the residents, and compatibility, have already been addressed.

§59-D-1.61(c): safe, adequate and efficient internal vehicular and pedestrian circulation systems. The evidence supports a finding that the proposed internal vehicular and pedestrian circulation systems and points of external access would be safe, adequate, and efficient. The internal circulation system would not provide vehicular connectivity, to avoid creating a cut-through route for motorists trying to circumvent the traffic light. It would, however, provide pedestrian

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connections among the residential areas, the worship center, the recreation areas, the partial stream valley trail and nearby sidewalks, all separate from roadways. The District Council concludes, based on the preponderance of the evidence, that the proposed points of external access can be constructed in the locations shown in a manner that would be safe, adequate and efficient.

§59-D-1.61(d): preservation of natural features. The proposed development would tend to prevent erosion of the soil and preserve natural vegetation and other natural features of the site by preserving the stream valley buffer and additional small, forested areas. Efficient layouts making use of the existing topography, together with preservation of the stream valley, would minimize grading. The evidence establishes that forest conservation requirements under Chapter 22A would be satisfied. The current concept storm water management plan had not yet received approval from the Department of Permitting Services when the record was closed. However, the evidence indicates that the current plan contains only minor differences from an earlier plan that was approved by the Department of Permitting Services, and that no waivers are likely to be needed.

§59-D-1.61(e): common area maintenance. The Applicant has provided draft documents that adequately provide for perpetual maintenance of common and quasi-public areas by a homeowners' association.

In addition to the five development plan findings, the District Council also must consider the relationship of the present application to the public interest. When evaluating the public interest, the District Council normally considers master plan conformity, the recommendations of the Planning Board and Technical Staff, and any adverse impact on public facilities or the environment. For the reasons discussed under finding (a) above, the District Council concludes that the subject application substantially complies with the Master Plan.

The evidence of record indicates that the proposed development would have no adverse effects on traffic conditions, schools or public utilities, and would comply with forest conservation and stormwater management regulations.

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Accordingly, having carefully weighed the totality of the evidence, the District Council concludes that approval of the requested zoning reclassification would be in the public interest.

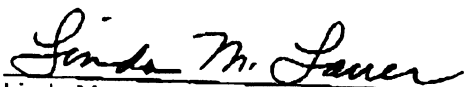
For these reasons and because to approve the instant zoning application will aid in the accomplishment of a coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District, the application will be approved in the manner set forth below.

ACTION

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District located in Montgomery County, Maryland approves the following resolution:

Zoning Application No. G-836, requesting reclassification from the RE-2 Zone to the PD-2 Zone of 16 acres of land located at 2929, 3001 and 3031 Bel Pre Road in Silver Spring, Maryland in the 13th Election District, is hereby approved in the amount requested subject to the specifications and requirements of the final Development Plan approved by the District Council, Exhibit 112(a); provided that, within 10 days of receipt of the District Council's approval resolution, the Applicant must submit to the Hearing Examiner for certification a reproducible original and three copies of the approved Development Plan, with the owner of Lot 3 correctly identified, in accordance with §59-D-1.64.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

COPY
Original Filed



Attachment D

DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

June 4, 2007

Carla Reid Joyner
Director

Ms. Christina Contreras
Patton Harris Rust & Associates
12850 Middlebrook Road, Suite 200
Germantown, MD 20874

Re: **REVISED Stormwater Management CONCEPT**
Request for Layhill Overlook
Preliminary Plan #: 1-20070490
SM File #: 216990
Tract Size/Zone: 16 acres / PD-2
Total Concept Area: 16 acres
Lots/Block: Pt. of Lots 3, 4, 5 Homecrest
Parcel(s): N/A
Watershed: Northwest Branch

Dear Ms. Contreras:

Based on a review by the Department of Permitting Services Review Staff, the revised stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via construction of a dry detention facility and via flow dispersion; on-site water quality control via construction of two Montgomery County Sand Filters (MCSF's), three Bio Filters, one proprietary filtration unit with structural pretreatment and via nonstructural methods; and onsite recharge via nonstructural methods including the use of dry wells and recharge trenches.

The following items will need to be addressed 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. To compensate for granting of a waiver of the open section roadway requirement, the groundwater recharge requirement will be increased by 50%. Recharge must be spread across the project site as much as practical. Should the waiver not be granted, a revised stormwater concept must be submitted for consideration prior to submission of detailed plans for review.
6. Please ensure that the proposed Bio Filters meet Montgomery County design requirements, including a maximum storage depth of 12-inches. Do not design the facilities to treat in excess of 110% of the required Water Quality Volume (WQV).

7. The channel protection release rate for this project must be computed for a 12-hour release, since this is a Class IV watershed.
8. All stormwater management facilities, with the exception of proposed dry wells on single family lots, must be located within stormwater management easements.
9. Stormwater management easements and covenants for the existing facilities on the Vedanta Center property must be formally abandoned prior to issuance of sediment control permits,
10. Ensure Flow Splitter No. 52 is located outside the public right-of-way.
11. The underdrain of Sand Filter No. 2 must outfall to the proposed detention facility. If a piped overflow structure is required as shown on the stormwater concept plan, CMP may not be used.
12. There is no need to compute a 2-year flow analysis for the project.
13. Runoff from the "West Offsite Commercial" area and the "North Offsite Commercial Site" will convey directly to the existing stream located on the subject property, bypassing on-site storm drainage systems.

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 Mark Etheridge at 240-777-6338.

Sincerely,



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

RRB:dm mce

cc: C. Conlon
S. Federline
SM File # 216990

QN -ON; Acres: 16
QL - ON; Acres: 16
Recharge is provided



DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

June 15, 2007

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-20070490
Layhill Overlook

Dear Ms. Conlon:

We have completed our review of the revised preliminary plan dated June 14, 2007. This plan was reviewed by the Development Review Committee at its meeting on February 12, 2007. 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.

1. Necessary dedication for Bel Pre Road in accordance with the Master Plan.
2. Provide necessary dedication for Homecrest Road in accordance with the Master Plan and improve it to primary residential standards along the site frontage.
3. Full width dedication and construction of Roads 'A' and 'B' per modified tertiary residential roadway standards (MC-210.03). Terminate Road 'B' in a standard cul-de-sac (MC-222.01).
4. Full width dedication and construction of Road 'C' per secondary residential roadway standards (MC-211.01) and terminate in a T-turnaround (MC-223.01). We have reviewed the proposed modified typical section for Road 'C' and hereby approve the retaining wall and modified sidewalk on the eastern side of this road to avoid obtaining grading easement from the adjacent property.
5. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
6. Prior to approval of the record plat by the Department of Permitting Services (DPS), the applicant's consultant will need to obtain the approval of grade establishments for new public streets.

Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
240-777-6000 • 240-777-6013 TTY • 240-777-6030 FAX
www.montgomerycountymd.gov

Ms. Catherine Conlon
Preliminary Plan No. 1-20070490
Date June 15, 2007
Page 2

7. A Public Improvements Easement may be necessary along Bel Pre Road, in order to relocate the sidewalk with and proper green panel behind the curb. At the site plan stage, the applicant's consultant will need to determine if there is sufficient right of way to permit this sidewalk relocation. If not, the applicant will need to either dedicate additional right of way or execute a Declaration of Public Improvements Easement document. That document is to be recorded in the Land Records of Montgomery County, with the liber and folio referenced on the record plat.
8. Public Improvements Easements will be required along all Modified Tertiary classification roadways. The Declaration of Public Improvements Easement document is to be recorded in the Land Records of Montgomery County. The deed reference is to be provided on the record plat. Unless otherwise noted, the Public Improvements Easement is to be a minimum width of ten (10) feet with the overlapping Public Utilities Easement being no less than twenty (20) feet wide. Also applicant should voluntarily provide a site plan and go through that process to show there is adequate room to accommodate all public utilities and amenities.
9. 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.
10. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
11. Waiver from the Montgomery County Planning Board for a reduction in the minimum intersection spacing along an arterial (Bel Pre Road) classification roadway. Please note that MCDPWT supports this waiver if the access point functions as right in-right out only.
12. Waiver from the Montgomery County Planning Board for lot(s) on a private right of way.
13. 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.
14. This site is located in the northwest branch (Class IV) watershed. In accordance with Section 49-35(k) of the Montgomery County Code, curb and gutter may not be installed in an environmentally sensitive watershed unless certain waiver criteria have been satisfied. We note that sheet 2 of the preliminary plan includes a copy of Mr. Joseph Y. Cheung's June 11, 2007 letter approving these installations.
15. In accordance with Section 49-35(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided on both sides of the proposed public streets according to associated DPWT standard street section unless the applicant is able to obtain a waiver from the appropriate government agency.
16. The parking layout plan will be reviewed by the Department of Permitting Services at the site plan or building permit stage, whichever comes first. To facilitate their review, that plan should delineate and dimension the proposed on-site travel lanes, parking spaces, curb radii, handicap

Ms. Catherine Conlon
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Date June 15, 2007
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parking spaces and access facilities, and sidewalks. The applicant may wish to contact Ms. Sarah Navid of that Department at (240) 777-6320 to discuss the parking lot design.

17. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of the largest vehicle expected to frequent the site. However Driveways curb returns should not cross the property lines. Also provide proper spacing between the driveways curb returns and public utilities features.
18. We recommend one way counter clockwise traffic circulation for the proposed private residential circle and two way traffic circulation for the private entrance road.
20. The proposed private streets must be sufficiently wide to accommodate two-way vehicular traffic. Private streets are to be designed to allow an SU-30 truck to circulate without crossing the centerline nor the curbline.
21. The applicant needs to submit a truck circulation plan for review by the M-NCPPC and MCDPS. This plan should delineate the proposed movements on-site between the anticipated access locations, the proposed truck loading spaces, and the proposed dumpsters. The truck circulation pattern and loading position should be designed for counter-clockwise entry and for a left-side backing maneuver. Passenger vehicle travel ways should be separated from the expected truck patterns and storage areas. The applicant may also need to provide documentation of their proposed delivery schedules. Also coordinate with David Wagaman at 240-777-6400 Division of Solid Waste about their requirements for recycle/trash truck access and movement.
22. On the site plan, delineate the location and dimensions of the proposed truck loading and/or dumpster spaces.
23. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans With Disabilities Act.
24. Where perpendicular parking spaces border a sidewalk, a two (2) foot vehicle overhang is assumed. The applicant should either provide a seven (7) foot wide sidewalk or wheelstops within those parking spaces.
25. 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.
26. 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.
27. Geometrics for the intersection of proposed access point on Bel Pre Road will be reviewed by the Department of Permitting Services as part of their review of the building permit application.
28. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

Ms. Catherine Conlon
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Date June 15, 2007
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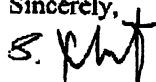
29. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Traffic Management Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
30. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
31. Trees in the County rights of way - species and spacing to be in accordance with the applicable DPWT standards. A tree planting permit is required from the Maryland Department of Natural Resources, State Forester's Office [(301) 854-6060], to plant trees within the public right of way.
32. Please coordinate with DPWT Division of Transit Services about their requirements and project impacts on their network.
33. Provide driveway access for the stormwater management facilities per associated DPS guidelines.
34. Public Improvements Agreement (PIA) will be an acceptable method of ensuring construction of the required public improvements within the County right of way. The PIA details will be determined at the record plat stage. The PIA will include, but not necessarily be limited to, the following improvements:
 - A. Across the Homecrest Road site frontage widen the pavement to 18' from centerline with curb, gutter, 5 feet wide concrete sidewalk, handicap ramps, storm drainage and appurtenances and street trees.
 - B. Construct Roads 'A' and 'B' per modified tertiary residential roadway standards (MC-210.03). Terminate Road 'B' in a standard cul-de-sac (MC-222.01).
 - C. On Bel Pre Road site frontage, relocate the sidewalk and provide grass panel and street trees as per arterial roadway standards (MC-213.01).
 - D. Construct Road 'C' per secondary residential roadway standards (MC-211.01) terminating in a T-turnaround (MC- 223.01)
 - E. Permanent monuments and property line markers, as required by Section 50-24(c) of the Subdivision Regulations.
 - F. 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.

Ms. Catherine Conlon
Preliminary Plan No. 1-20070490
Date June 15, 2007
Page 5

- G. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- H. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Sam Farhadi, P.E.
Development Review Group
Traffic Engineering and Operations Section
Division of Operations

m:/subdivision/farhas01/preliminary plans/ 1-20070490, Layhill Overlook.doc

Enclosures (2)

cc: Jeff Kirby, Aspen Hill Estates LLC
Nat Ballard, Patton, Harris & Rost & Assoc.
Scott Wallace, Linowes & Blocher
Joseph Y. Cheung; DPS RWPPR
Henry Emery; DPS RWPPR
Sarah Navid; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Gregory Leck, DPWT TEOS
Preliminary Plan Folder
Preliminary Plans Note Book



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Aspen Hill Manor Preliminary Plan Number: 1-20070490

Street Name: Bel Pre Road Master Plan Road Classification: Arterial

Posted Speed Limit: 35 mph

Street/Driveway #1 (525' East of Homecrest) Street/Driveway #2 (_____)

Sight Distance (feet) OK?
 Right 530 feet yes
 Left 530 feet yes

Sight Distance (feet) OK?
 Right _____
 Left _____

Comments: _____

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
Major - <u>(45)</u>	<u>400'</u>
50	475'
(55)	550'

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

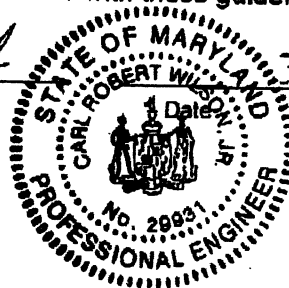
*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Carl Robert Wilson, Jr.
 Signature

29931
 PLS(P.E) MD Reg. No.



3/28/07
 Date

Montgomery County Review:	
<input checked="" type="checkbox"/>	Approved
<input type="checkbox"/>	Disapproved:
By:	<u>SF</u>
Date:	<u>6/15/07</u>

Form Reformatted:
 March, 2000

6445



MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Aspen Hill Manor Preliminary Plan Number: 1-20070490

Street Name: Homecreat Road Master Plan Road Classification: Primary

Posted Speed Limit: 25 mph

Street/Driveway #1 (290 Feet North of Bel Pje Rd. Street/Driveway #2 (824 Feet North of Bel Pje Rd.

Sight Distance (feet) OK?
Right 747 feet OK
Left 290 feet OK

Sight Distance (feet) OK?
Right 253 feet *
Left 824 feet OK

*By changing Road 'C' classification To Secondary and shifting access point 5' north, 250' is achieved.

Comments: Master Plan Road Classification is primary
Speed limit classification is tertiary

Comments: Master Plan Road Classification is primary
Speed limit classification is tertiary

GUIDELINES

Table with 2 columns: Classification or Posted Speed (use higher value) and Required Sight Distance in Each Direction. Rows include Tertiary (25 mph), Secondary (30), Business (30), Primary (35), Arterial (40, 45), and Major (50, 55).

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 8' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Signature: Carl [Signature] Date: 10/14/05
Professional Engineer Seal: ROBERT WILSON, No. 29931, State of Maryland

Montgomery County Review:
[Checked] Approved
[] Disapproved
By: SF
Date: 6/15/07