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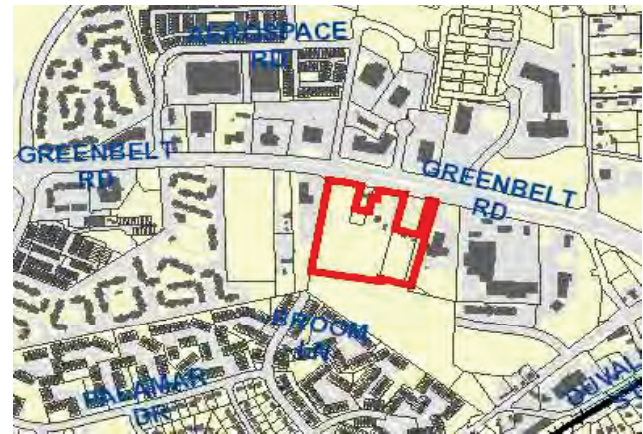
Zoning Map Amendment

ZMA-2022-001

Marianne Davis Trust Development

REQUEST	STAFF RECOMMENDATION
Zoning map amendment request to rezone the subject property from Residential, Rural Zone (RR) to Residential, Multifamily-48 Zone (RMF-48).	With the conditions recommended herein: <ul style="list-style-type: none"> •Disapproval of Zoning Map Amendment ZMA-2022-001

Location: On the south side of MD 193 (Greenbelt Road), at its intersection with Forbes Boulevard.	
Gross Acreage:	12.43
Zone:	RR
Prior Zone:	R-R
Dwelling Units:	0
Gross Floor Area:	0
Planning Area:	70
Council District:	03
Municipality:	N/A
Applicant/Address: Land Development Investors II, LLC c/o Jay Attar 1 Stone Chapel Lane Pikesville, MD 21208	
Staff Reviewer: Dominique Lockhart Phone Number: 301-952-3411 Email: Dominique.Lockhart@ppd.mncppc.org	



Planning Board Date:	12/15/2022
Planning Board Action Limit:	N/A
Staff Report Date:	11/10/2022
Date Accepted:	09/23/2022
Informational Mailing:	07/13/2022
Acceptance Mailing:	09/21/2022
Sign Posting Deadline:	N/A

The Planning Board encourages all interested persons to request to become a person of record for this application. Requests to become a person of record may be made online at http://www.mncppcapps.org/planning/Person_of_Record/. Please call 301-952-3530 for additional information.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
www.pgplanning.org

November 10, 2022

REFERRAL MEMORANDUM

TO: The Prince George's County Planning Board
The Prince George's County District Council

FROM: Dominique Lockhart, Planner III, Zoning Review Section *DAL*
Development Review Division

VIA: Jeremy Hurlbutt, Supervisor, Zoning Review Section *JDH*
Development Review Division

SUBJECT: **Referral for Zoning Map Amendment ZMA-2022-001**
Marianne Davis Trust Development

REQUEST

This application for a zoning map amendment, to rezone the subject property from Residential, Rural Zone (RR) to Residential, Multifamily-48 Zone (RMF-48), was accepted by the Prince George's County Planning Department on September 23, 2022, and is filed pursuant to Section 27-3601 of the Prince George's County Zoning Ordinance.

Land Use

The subject property is located on the south side of MD 193 (Greenbelt Road), at its intersection with Forbes Boulevard. The site is comprised of 12.43 acres of mostly undeveloped land. An existing single-family residence is located on the eastern portion of the site.

The 2010 *Approved Glenn Dale-Seabrook-Lanham and Vicinity Sector Plan and Sectional Map Amendment* (sector plan and SMA) retained the prior Rural Residential (R-R) Zone on the subject property. The 2021 *Countywide Sectional Map Amendment* (CMA) rezoned the R-R Zone to the RR Zone on the subject property.

The subject property is surrounded by the following uses:

- **North**—Abutting the site to the north is Lot 1, a privately owned property in the RR Zone, containing a single-family residence (10211 Greenbelt Road). Also abutting the subject property is MD 193, an arterial roadway, which is the northern

boundary of the sector plan and SMA area. Across MD 193, are properties located within the 2006 *Approved Sector Plan and Sectional Map Amendment for the East Glenn Dale Area (Portions of Planning Area 70)*, with commercial and office uses in the Industrial, Employment Zone.

- **East**—Place of Worship in the RR Zone.
- **South**—Undeveloped land in the RR Zone.
- **West**—Place of Worship in the RR Zone.

Below is an overview of the zoning history for the subject property:

- 1993 *Approved Master Plan and Sectional Map Amendment for Glenn Dale-Seabrook-Lanham and Vicinity (Planning Area 70)*: Subject property zoned R-R
- 2010 *Approved Glenn Dale, Seabrook, Lanham and Vicinity Sector Plan and Sectional Map Amendment*: Subject property zoned R-R

The sector plan and SMA recommends residential low land use on the subject property, with a focus on single-family detached units. Per the plan, Residential Low is defined as 0.5 to 3.5 dwelling units per acre (page 200 and Map 36 – Proposed Land Use on page 202). The allowed density would permit between 6 and 43 single-family residences on the subject property. Per the Zoning Ordinance, the maximum density allowed in the RR Zone is 2.17 dwelling units per acre, with a minimum lot area of 20,000 square feet (Section 27-4202(c)). This would allow maximum density of 26 single-family residences on the 12.43-acre site. The proposed RMF-48 Zone is the most intense of the residential base zones, with a permitted maximum density of 48 dwelling units per acre and a minimum lot area requirement of 7,500 square feet (Section 27-4202(i)). This would allow a maximum of 596 dwelling units on the site.

Required Findings

The following analysis is based on the referrals received and the statement of justification (SOJ) submitted by the applicant, to address the required findings for approval. To approve the requested zoning map amendment, Section 27-3601(e) of the Zoning Ordinance states the following:

“In determining whether to adopt or disapprove a proposed zoning map amendment (ZMA), the District Council may consider many factors. No amendment to the CBCAO Zone shall be granted without the applicant demonstrating conformance with the decision standards in Section 27-3603(d), CBCAO Zoning Map Amendment Decision Standards. No other zoning map amendment shall be granted without the applicant demonstrating either:

- (1) There has been a substantial change in the character of the neighborhood; or
- (2) There was a mistake in the original zone for the land subject to the amendment which has never been the subject of an adopted sectional map amendment; or
- (3) There was a mistake in the current sectional map amendment.”

Background on the Change/Mistake Rule

Zoning decisions of the legislative body enjoy a strong presumption of correctness and validity. Accordingly, a request to rezone an individual parcel requires evidence that there has either been (i) a substantial change in the character of the neighborhood since the time the zoning was put in place, or (ii) a showing that there was a “mistake” at the time of the most recent rezoning.

The current RR zoning was put in place through the CMA adopted in November 2021. However, the standards in Section 27-3601(e) reference the current sectional map amendment as the most recent zoning, at least with regard to whether there was a “mistake” in the zoning applied to the property. Staff assumes that the Prince George’s County District Council also intended the most recent sectional map amendment as the basis for evaluating whether there has been a substantial change in the character of the neighborhood.

Analysis

The applicant contends that retaining the subject property in the prior R-R Zone was a mistake by the District Council. Their contention is that the District Council failed to consider existing facts and trends within the sector plan and SMA, which had they been considered, would have resulted in a rezoning of the subject property to the Multifamily High Density Residential (R-10) Zone. The R-10 Zone was the predecessor to the RMF-48 Zone in the Zoning Ordinance. The applicant points to two distinct mistakes (the provided SOJ contains additional details on each mistake outlined) as follows:

Mistake 1

The District Council failed to take into account that the RR Zone is not conducive to the type of residential development promoted by the sector plan and SMA along MD 193, and creates conflict with the Future Land Use Principles and Policies contained within the sector plan and SMA, the result of which constitutes an error.

The purpose of the RR Zone is to encourage and facilitate single-family residential development upon moderately large lots. The development regulations of the RR Zone contravene the land use goals and principles contained within the sector plan and SMA. Recommendations 1 and 4 for the SMA Living Areas (page 1) state to “maintain and strengthen the character of existing neighborhoods” and “design residential infill to be compatible with existing neighborhood scale and character.” The SMA future land use principles and policies (page 200) outlines eight policies which include “promote infill development on vacant lots in existing residential areas” and “encourage land uses that provide sensitive transitions between commercial and employment centers and residential areas.”

No other property within Living Area 4 is zoned RR. The nearest RR zoned property lies to the east, beyond MD 564 (Lanham Severn Road), referred to as Living Areas 7, 8, and 9, which contains a contrasting residential character compared to Living Area 4. The single-family nature of Living Area 4 is compromised by the surrounding development of office buildings, townhomes, high density residential, and commercial retail. Large single-family homes would weaken the character of the area, promote incongruent housing types, and create an awkward transition from surrounding non-residential development. In addition, a community design issue specified with the sector plan and SMA (page 65) is “incompatible residential infill” that disparages the trend towards construction of larger single-family residences. The RR Zone requires large lots which directly encourages the construction of large homes. Retaining the RR Zone unnecessarily exacerbates this

construction trend. The RMF-48 Zone development would be harmonious with existing land uses along MD 193, including townhomes, apartments, commercial retail, and offices.

Mistake 2

The District Council failed to take into account that transportation improvements within the sector plan and SMA would undercut the viability of development within the RR Zone upon the subject property, thereby constituting an error.

One of the recommended roadway improvements found in the sector plan and SMA (page 168) is the relocation of Forbes Boulevard through Collector Road C-340. When constructed, the road will bisect the subject property. With the proposed alignment of C-340, development of the subject property in accordance with the RR Zone regulations would be practically impossible. Proposed roadway C-340 dates to at least the 1993 *Approved Master Plan and Sectional Map Amendment for Glenn Dale-Seabrook-Lanham and Vicinity (Planning Area 70)*, in which the roadway was referenced as C-339R. Both the 2009 *Approved Countywide Master Plan of Transportation (MPOT)* and 1993 *Approved Master Plan and Sectional Map Amendment for Glenn Dale-Seabrook-Lanham and Vicinity (Planning Area 70)* discourage access to individual residential driveways from collector and arterial roads.

Given the size of the subject property, the development restrictions of the RR Zone, and the alignment of C-340, it is impossible to develop the site with single-family detached homes as there is not available space for a residential street. The RMF-48 Zone provides for a level of density that would make development economically feasible considering the site constraints, which includes numerous environmental constraints, and the potential bisecting of the subject property if collector road C-340 is constructed. It was an error on the part of the District Council to retain the RR Zone for the subject property along with the proposed alignment of roadway C-340.

Staff Findings

Staff finds that the retention of the subject property in the RR Zone was intended, and that there was no mistake made by the District Council in its approval of the sector plan and SMA. The following is staff's collective analysis of the two mistakes stated by the applicant:

Mistake

The "mistake" prong requires a showing that the underlying assumptions or premises relied upon by the District Council during the rezoning were incorrect. For example, there was some incorrect fact or evidence that the Council relied on when making its decision that resulted in it applying the wrong zoning. It does not, however, refer to a mere mistake in judgment.

Mistake 1: Master Plan Analysis

The applicant states that the RR Zone is not conducive to the type of residential development promoted by the sector plan and SMA along MD 193.

Staff finds that, pursuant to Section 27-3601(e)(3), there was not a mistake in the sector plan and SMA. The current RR zoning classification is appropriate for the subject property.

The sector plan recommends residential low land use on the subject property. The future land use recommendations include maintaining the current densities for residential neighborhoods (page 3). Per the plan, Residential Low is defined as 0.5 to 3.5 dwelling units

per acre (page 200 and Map 36 – Proposed Land Use on page 202). The purpose of the RR Zone to encourage variations of single-family detached residential lots and the preservation of trees and open spaces aligns with the residential low land use category goals. The purpose of the proposed RMF-48 Zone directly contrasts the residential low land use recommendation by encouraging high-density multifamily residential development.

In addition, page 1 of the SMA states that the vision for the Glenn Dale-Seabrook-Lanham area “will continue to be a lower density suburban community comprising stable single-family neighborhoods, successful commercial and employment centers, and open space amenities.”

The subject property is specifically located within Living Area 4 of the SMA. Key recommendations for all living areas include ensuring that infill development conforms to and complements the existing neighborhood character (pages 10–11). Abutting properties to the east, west, and south are places of worship and undeveloped land in the RR Zone, which is the same zone as the subject property. In addition, directly to the north of the subject property is an existing single-family residence in the RR Zone. The SMA does specify two areas that are envisioned for long-term higher-density redevelopment, which includes the Seabrook MARC station area and the Vista Gardens Market Place area (page 163).

In addition, the most recent rezoning was the adopted Countywide Map Amendment (Prince George’s County Council Resolution CR-136-2021), that became effective on April 01, 2022. On July 23, 2019, the Prince George’s County Council authorized the Maryland-National Capital Park and Planning Commission (through Council Resolution CR-27-2019) to prepare a Countywide Map Amendment (CMA), to implement the zones contained in a new Zoning Ordinance for the County. The subject property retained its zoning of RR.

The Planning Board staff, as part of the CMA’s Public Participation Program, held three regional education sessions, numerous meetings with community and agency stakeholders, meetings with municipal agencies, virtual office hours, and advertised public hearings were held on the CMA zoning map. A search of the analysis testimony during the CMA Public Hearing Process revealed that no testimony or written correspondence was submitted refuting the proposed RR Zone for the subject property.

Mistake 2: Transportation Analysis

The applicant states that transportation improvements within the sector plan and SMA would undercut the viability of development upon the subject property, and that access to individual residential driveways from a collector road is discouraged.

Driveway access from both arterial and collector streets is discouraged but not prohibited. Section 27-6206(d)(1) of the Zoning Ordinance provides criteria for allowing driveway access from an arterial or collector street in order to provide safe mobility design options.

The street network for a development is to be served by a system of vehicular accessways and internal circulation, which can include design solutions such as driveways, shared driveways, turnarounds, and alleys. In addition, new single-family residential subdivisions processed with a preliminary plan of major subdivision will have to achieve a specified internal street connectivity index score in accordance with Table 27-6206(f)(1).

Transportation recommendations from the SMA include reducing traffic congestion on local streets, collectors, and arterials, and encourages alternative means of transportation within the sector plan area (pages 161–162). Roadway C-340 is a proposed collector roadway that will connect Lanham Severn Road to Greenbelt Road (Table 37, page 168 and Map 31, page 169) bisecting the subject property. In addition, there is a recommended designated bike lane connecting Forbes Boulevard (Map 26, page 153 and Table 38, page 171) located along the western boundary of the subject property.

The MPOT also identifies the same master-planned roadway on the subject property. The MPOT designates C-340 as a collector road, with an 80-foot ultimate right-of-way that extends within the limits of the subject site. The MPOT states that “these alignments are all subject to change in light of new information and discussions with property owners, prospective developers, and National Environment Protection Act review processes (page 58).” Therefore, the recommended roadway and bike lane does not preclude any development on the subject property. Staff finds that residential uses, that are compatible with the recommended density and surrounding uses, can be implemented upon the subject property under the current zoning.

Conclusion

Retention of the RR Zone on the subject property was intended to preserve compatible residential land uses and promote stable single-family neighborhoods. The existing RR Zone allows uses and a density that supports the implementation of the sector plan and SMA. The District Council chose to retain the zoning due to the character of the surrounding neighborhood and future land use recommendations for the area.

For a mistake to be a legally justifiable basis for rezoning, there must have been a basic and actual mistake by the legislative body, in this case the District Council. Staff finds the applicant’s argument that the District Council erred by not considering the surrounding developments and the proposed C-340 roadway alignment is not justified. The proposed Zoning Map Amendment, ZMA-2022-001, does not meet the requirements of Section 27-3601(e) stating that a mistake was made in the sector plan and SMA in retaining the RR Zone for the subject property.

Referrals

The following referral memorandums were received, which discuss the proposed zoning map amendment, are included as backup to this memorandum, and are incorporated by reference herein:

- a. Community Planning Division, dated October 19, 2022 (Calomese to Lockhart)
- b. Subdivision Section, dated October 21, 2022 (Mahsa to Lockhart)
- c. Historic Preservation Section, dated October 24, 2022 (Stabler, Smith, and Chisholm to Lockhart)
- d. Environmental Planning Section, dated October 25, 2022 (Juba to Lockhart)
- e. Transportation Planning Section, dated October 26, 2022 (Patrick to Lockhart)

RECOMMENDATION

Staff recommends **DISAPPROVAL** of Zoning Map Amendment ZMA-2022-001, for Marianne Davis Trust Development.

**STATEMENT OF JUSTIFICATION
ZONING MAP AMENDMENT
ZMA-2022-001**

APPLICANT: Land Development Investors II, LLC

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REQUEST: Rezoning of the Subject Property from the RR Zone to the RMF-48 Zone, pursuant to § 27-3601 of the Prince George's County Zoning Ordinance

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A. Description of Property

This application for a Zoning Map Amendment is being submitted on behalf of the contract purchasers, Land Development Investors II, LLC (“Applicant”) for 12.32 acres of land on the south side of Greenbelt Road (MD 193), approximately 1,865 feet west of its intersection with Lanham Severn Road (MD 564) in the RR Zone and comprised of Parcels 420, 421 and 422 as shown on Prince George’s County Tax Map 36-A2 and a portion of Lot 1 on the plat of subdivision entitled “Rueth’s Addition to Glenn Dale” as shown in Plat Book 48 at Plat 61

among the Land Records of Prince George's County ("Subject Property"). The Subject Property was retained in the predecessor to the current RR Zone (R-R Zone) within the *2010 Approved Glenn Dale, Seabrook, Lanham and Vicinity Sector Plan and Sectional Map Amendment* ("Sector Plan and SMA"). The Subject Property abuts a church to the east in the RR Zone; undeveloped property in the RR Zone to the south; another church in the RR Zone to the west; and office buildings in the IE Zone to the north across Greenbelt Road (MD 193). The remaining portion of Lot 1 that is not part of this application and that abuts the Subject Property is a single-family residence in the RR Zone. Numerous attempts have been made to purchase this portion of Lot 1 and incorporate into this application, but the owner of this residence has rebuffed all of the Applicant's reasonable purchase offers.

Starting from the Subject Property, and moving east along Greenbelt Road towards Lanham-Severn Road (MD 564) and west towards Good Luck Road the sites are improved with various commercial retail, office, and high-density residential uses in the CGO, IE, RMF-20 and RMF-12, respectively. These uses include, but are not limited to: Eastgate Shopping Center, Lidl Grocery Store, Social Security Administration offices, NASA Federal Credit Union and Glenn Dale Commons townhouse development.

The neighborhood, as described in the Sector Plan, is "Living Area 4". This area contains a variety of housing types, including single-family, townhouses, and multifamily units. Living Area 4 is geographically bounded by Greenbelt Road to the north, CSX railroad tracks to the east, 97th Avenue/97th Place and 98th Avenue to the south, and Good Luck Road to the west. The Applicant generally accepts these limits as the appropriate neighborhood; however, the Applicant submits that the neighborhood boundary should extend north across Greenbelt Road to encompass the properties south of Northern Avenue and east of Good Luck Road. Given the Subject Property's defining characteristic is its frontage and access from a major arterial (Greenbelt Road), it has more in common with the high-density residential and commercial/office properties along the north side of Greenbelt Road than most other properties within its defined neighborhood. For this reason, the Applicant submits properties south of Northern Avenue and east of Good Luck Road should be included within the Subject Property's neighborhood for purposes of the Subject Application.

B. Request

This zoning map amendment application seeks the rezoning of the Subject Property from the RR to the RMF-48 Zone, pursuant to § 27-3601 of the Prince George’s County Zoning Ordinance (“Zoning Ordinance”).¹

C. Conformance with Zoning Ordinance

Pursuant to § 27-3601(C)(5)(G) of the Zoning Ordinance, the Applicant must detail the legal basis by which the requested amendment can be approved, and any factual reasons showing why approval of the request will not be detrimental to the public health, safety, and welfare. The legal basis for this rezoning is that the District Council made a mistake retaining the Subject Property in the RR Zone through the *2010 Approved Glenn Dale, Seabrook, Lanham and Vicinity Sector Plan and Sectional Map Amendment*. A mistake in the current Sectional Map Amendment is lawful justification for rezoning pursuant to § 27-3601(e) of the Zoning Ordinance.

The subject application will not be detrimental to the public health, safety and welfare of the residents of Prince George’s County, nor areas beyond. Rather, this request is to rezone the subject property to a different residential zone—one that is more reflective of the overall area since it was a mistake for the District Council to retain the RR Zone upon the Subject Property. The type of uses afforded by the RMF-48 Zone (the purported correct zoning for the Subject Property) are in harmony with adjoining and abutting properties. This zone does not permit any use that could be considered noxious or incongruent to Prince George’s County residents; thus, this request cannot be considered detrimental to the public health, safety and welfare. Finally, any future development of the Subject Property aside from a single-family home would require, at a minimum, preliminary plan of subdivision approval and development standard conformance, and at a maximum, detailed site plan approval.

D. Basis for Rezoning

¹This rezoning application is being submitted in accordance with the current Zoning Ordinance that became effective on April 1, 2022 even though the basis for this rezoning refers to the *2010 Approved Glenn Dale, Seabrook, Lanham and Vicinity Sector Plan and Sectional Map Amendment*. Nevertheless, for ease of review, the Applicant will continue to reference the current Zoning Ordinance in its rezoning request.

Section 27-3601(e) of the Zoning Ordinance establishes the process for the piecemeal rezoning of individual properties in conventional zones, which is known as change/mistake rezoning. Aside from amendments to the CBCAO Zone, no zoning map amendment shall be granted without the applicant demonstrating either:

- (1) There has been a substantial change in the character of the neighborhood; or
- (2) There was a mistake in the original zoning for property which has never been the subject of an adopted Sectional Map Amendment; or
- (3) There was a mistake in the current Sectional Map Amendment.

The Applicant submits that a mistake occurred when the Prince George's County Council, sitting as the District Council, retained the Subject Property in the RR Zone within the *2010 Approved Glenn Dale, Seabrook, Lanham and Vicinity Sector Plan and Sectional Map Amendment* ("Sector Plan and SMA"). In Maryland, the basis for piecemeal rezoning of conventional zones based on mistake is set forth in *Boyce v. Sembly*, 25 Md. App. 43 (1975). In *Boyce*, the Court summarizes the mistake rule as follows:

“[E]rror or mistake is established when there is probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid. Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension.”

Id. at 50-51. To prove that the Council's action was a mistake, “it is necessary not only to show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council.” *Id.* at 52. Moreover, “a conclusion based on a factual predicate that is incomplete or inaccurate may be deemed, in zoning law, a mistake or error; an allegedly aberrant conclusion based on full and accurate information, by contrast, is simply a case of bad judgment, which is immunized from second-guessing.” *People's Counsel for Balt. Cnty. v. Beachwood I Ltd. P'ship*, 107 Md. App. 627, 645 (1995).

The Applicant submits that the District Council erroneously retained the Subject Property in the RR Zone through approval of the 2010 Sector Plan and SMA because the Council failed to consider existing facts and trends within the Sector Plan and SMA, which, had they been

considered by the Council, would have resulted in a rezoning of the Subject Property to the R-10 zone—the predecessor to the current RMF-48 zone.

1. The RR Zone is not conducive to the type of residential development promoted by the Sector Plan and SMA along Greenbelt Road and creates conflict with the espoused Future Land Use Principles and Policies contained within the Sector Plan and SMA, the result of which constitutes an error.

The purpose of the RR Zone is to encourage and facilitate single-family residential development upon moderately large lots. *See* § 27-4202(c)(1)(B). The maximum density for residential development within the RR Zone is 2.17 d.u./acre while the minimum net lot area is 20,000 sq. ft. (functionally half acre lots). *See* § 27-4202(c)(2). These development characteristics contravene the land use goals and principles contained within the Sector Plan and SMA for the Subject Property and the neighborhood it is located in. On Page 1 of the Sector Plan and SMA, the plan lists five (5) key recommendations for living areas to regulate their growth and development. Of import, Recommendation (1) is: “[m]aintain and strengthen the character of existing neighborhoods.” The inverse to this recommendation is Recommendation (4), which states: “[d]esign residential infill to be compatible with existing neighborhood scale and character”, which is also found on Page 1. Likewise, Table 50 on Page 200 of the Sector Plan and SMA lists specific principles and policies for future land use within the Sector Plan and SMA. Key among these eight (8) policies are: “[p]romote infill development on vacant lots in existing residential areas” and “[e]ncourage land uses that provide sensitive transitions between commercial and employment centers and residential areas”.

The continuation of the RR zone at this location, let alone along Greenbelt Road, is an error given the principles and policies promulgated within the Sector Plan and SMA. No other property within Living Area 4 is zoned RR, let alone within the neighborhood as defined by the Applicant, and for good reason. The single-family nature of the area is compromised by the development of multi-story office buildings and townhomes along the north side of Greenbelt Road, high-density residential development to the west along Greenbelt Road, and commercial retail to the east within Eastgate Shopping Center. Developing large single-family residences on individual lots does not serve to maintain or strengthen the character of existing neighborhoods, which consists of high-density residential development comprised of townhomes and multi-family residential. Large single-family homes would only serve to weaken the character of the

area and promote incongruent housing types. Moreover, large single-family lots would create an awkward transition from existing commercial development to the east and existing high-density residential uses and institutional uses to the west.

The nearest RR zoned property lies to the east, beyond Lanham Severn Road (MD 564) and the CSX railroad tracks and south of Glenn Dale Boulevard (MD 193)—referred to as Living Areas 7, 8 and 9 within the Sector Plan and SMA. The RR zone is appropriate in these neighborhoods because these areas are characterized by large lot single-family homes, open space and institutional uses. Notably absent from these neighborhoods are the higher-density residential, commercial and office uses, which dominate the character of the land in the vicinity of the Subject Property. Limiting the Subject Property to develop in a manner similar to Living Areas 7, 8 and 9 is absurd given the stark contrast in their residential characters.

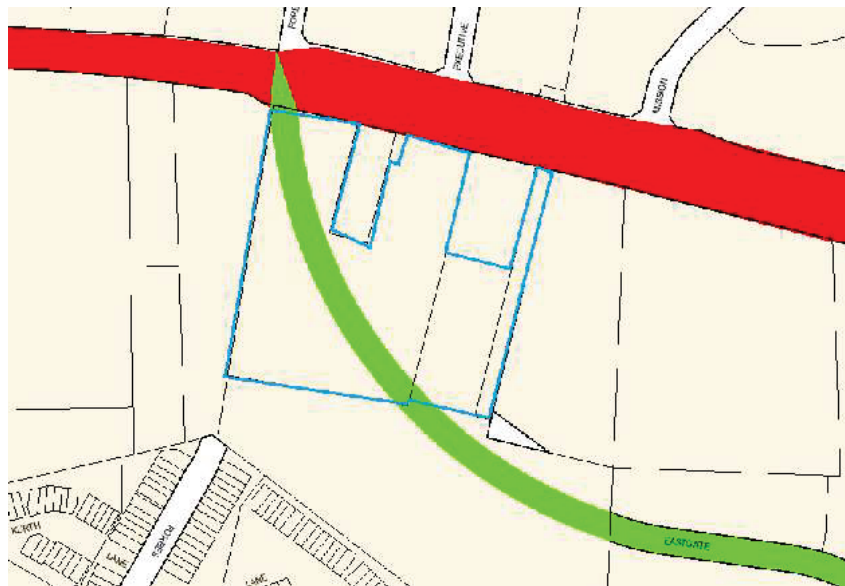
Finally, developing the Subject Property in accordance with the RR Zone exacerbates one of the major residential urban design issues specified within the Sector Plan and SMA. Issue #4. Incompatible residential development on Page 65 of the Sector Plan and SMA disparages the trend towards the construction of larger single-family residences, which are out character with the smaller residential units from the 1940s, 1950s and 1960s that currently exist. The RR Zone requires large lots, which in turn encourages, if not requires, the construction of large homes given the price and value of land. Retaining the RR Zone would unnecessarily exacerbate this construction trend, especially as it would be wholly out of harmony with existing residential properties in the vicinity of the Subject Property.

2. Transportation improvements within the Sector Plan and SMA undercut the viability of development within the RR Zone upon the Subject Property, thereby constituting and error

One of the recommended roadway improvements found on Table 37 on Page 168 of the Sector Plan and SMA is the relocation of Forbes Boulevard, a four lane, eighty (80) foot right-of-way, Collector Road C-340 between Lanham Severn Road (MD 564) and Greenbelt Road (MD 193) that when constructed would bisect the entirety of the Subject Property. The proposed location of C-340 is shown on the map below, which is an excerpt of Map 19 from the 2009 Approved Countywide Master Plan of Transportation.



The portions of the Subject Property impacted by the construction of C-340 is shown on the image below (the Subject Property is outlined in blue for your convenience.)



As evidenced from these images, it was clearly an error on the part of the District Council to simultaneously retain the RR Zone for the Subject Property and the proposed alignment of C-340 because development of the Subject Property in accordance with the RR Zone regulations would be practically impossible. The proposed alignment of C-340 dates to at least the 1993 Approved Glenn Dale, Seabrook, Lanham and Vicinity Master Plan and Sectional Map Amendment (“1993 Sector Plan and SMA”). A map showing said alignment is hereto as “Attachment A”. As you can see the alignment is virtually unchanged from depictions excepting

the highway number. In the 1993 Sector Plan and SMA, this route is number C-339R², and described as a four-lane undivided section that was realigned from the 1977 Master Plan to eliminate heavy volumes of traffic through the existing Woodstream townhouse development.

According to the 2009 Countywide Master Plan of Transportation (“Transportation Plan”) and the 2006 Sector Plan and SMA, a Collector is classified as “[a] two- or four-lane roadway with minimal control of access providing movement between developed areas and the arterial system.” However, a Collector Road from the 1993 Sector Plan and SMA is described a little differently. This definition is found on page 44 of the 1993 Sector Plan and SMA (attached hereto as “Attachment “B”). From this plan, a Collector Road—in addition to the definition afforded by the Transportation Plan and 2006 Sector Plan and SMA—discourages residential driveways with access points to be spaced to minimized operational problems. Private entrances, contrary to residential driveways, are permitted.

Given the size of the Subject Property, the development restrictions of the RR Zone and the alignment of C-340, it is impossible to develop the site with ½ acre single-family detached homes. As stated by the Transportation Plan, the 2006 Master Plan and SMA and elaborated by the 1993 Sector Plan and SMA access to individual residential driveways from a Collector Road is discouraged. The design alternative would be to provide access to individual single-family detached units from residential street(s) that intersect with the proposed C-340. However, this is nearly, if not impossible, given that the alignment of C-340 cuts a large swath through the middle of the Subject Property. There simply is not any available space for a residential street. The only way to develop any single-family home at this site would be to have it connect directly to C-340, which for the reasons mentioned above would be discouraged. Therefore, it was a mistake for the District Council to retain the RR Zone upon the Subject Property.

E. Had the District Council Not Erroneously Retained the RR Zone, It Would Have Rezoned the Subject Property to the R-10—Predecessor of the RMF-48

Once it has been demonstrated that the District Council erroneously retained the RR zone upon the Subject Property, the next step is a determination of the zone the Council would have chosen had it not relied upon the misapprehension(s). “In other words, if the legislative

² For the sake of clarity, this route will continue to be referred to as “C-340”.

body grants a requested rezoning based upon a zoning mistake . . . it is stating generally that it would have initially granted that zoning classification had it not relied upon erroneous and mistaken assumptions.” *White v. Spring*, 109 Md. App. 692, 709 (1996). The Applicant respectfully submits that the District Council would have rezoned the Subject Property to the RMF-48 Zone (successor of the R-10 Zone) had it not relied upon erroneous or mistaken assumptions previously described.

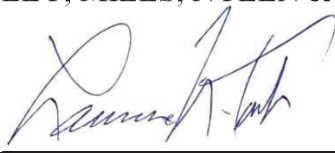
As mentioned earlier, the Sector Plan and SMA, lists certain recommendations for living areas to regulate their growth and development, such as “[m]aintain and strengthen the character of existing neighborhoods.” The inverse to this recommendation is Recommendation (4), which states: “[d]esign residential infill to be compatible with existing neighborhood scale and character”, which is also found on Page 1. Likewise, Table 50 on Page 200 of the Sector Plan and SMA lists specific principles and policies for future land use within the Sector Plan and SMA. Key among these eight (8) policies are: “[p]romote infill development on vacant lots in existing residential areas” and “[e]ncourage land uses that provide sensitive transitions between commercial and employment centers and residential areas”. Given the inherent restrictions in developing the Subject Property as RR, the Applicant respectfully submits that the RMF-48 Zone is more appropriate. The RMF-48 Zone provides for a level density that would make development economically feasible in light of the site constraints, which includes numerous environmental constraints, and the potential bisecting of the Property, when and if, C-340 is constructed. Likewise, RMF-48 development would be harmonious with existing land uses along Greenbelt Road, including townhomes, apartments, commercial retail, and offices.

F. Conclusion


For all the above-described reasons, the Applicant respectfully submits that: (1) the District Council erred in retaining the Subject Property in the RR zone through the *2010 Approved Glenn Dale, Seabrook, Lanham and Vicinity Sector Plan and Sectional Map Amendment*; and (2) had the District Council not relied upon the mistakes, as set forth herein, it would have rezoned the Subject Property to the RMF-48 Zone (successor to the R-10 Zone). For these reasons, the applicant herein respectfully requests that the Subject Property be rezoned to the RMF-48 Zone.

Respectfully submitted,

O'MALLEY, MILES, NYLEN & GILMORE, P.A.

By: 

Lawrence N. Taub, Esquire



Nathaniel Forman, Esquire
7850 Walker Drive, Suite 310
Greenbelt, MD 20770
301-575-3237

October 19, 2022

MEMORANDUM

TO: Dominique Lockhart, Planner III, Zoning Section, Development Review Division
VIA: David A. Green, MBA, Planner IV, Long-Range Planning Section, 
 Community Planning Division
FROM: Michael D. Calomese, Planner II, Master Plans and Studies Section, 
 Community Planning Division
SUBJECT: ZMA-2022-001 Marianne Davis Trust Development

FINDINGS

Community Planning Division staff finds that pursuant to Section 27- 3601 (e) (1) Zoning Map Amendment (ZMA) of the Zoning Ordinance, there was not a mistake in the 2010 *Approved Glenn Dale-Seabrook-Lanham and Vicinity Approved Sector Plan and Sectional Map Amendment (SMA)*. The 2021 Countywide Sectional Map Amendment (CMA) rezoned the Rural Residential (R-R) zone with the Residential, Rural (RR) zone on the subject property. The Residential, Rural (RR) zone classification was applied to ensure conformance with the recommended land use and intent of the approved sector plan and SMA could be implemented.

BACKGROUND

Location: 10301 and 10303 Greenbelt Road, Lanham, MD 20706
 (South side of Greenbelt Road, approximately .35 miles west from its intersection with Lanham-Severn Road [MD 564])
Size: 12.426 acres
Existing Use: Wooded with single-family detached structures
Proposal: Rezone from RR to RMF-48 Zone

GENERAL PLAN, MASTER PLAN, AND SMA

General Plan:

Plan 2035 places this application in the Established Communities Growth Policy Area. Established Communities are most appropriate for context-sensitive infill and low- to medium-density

ZMA-2022-001 Marianne Davis Trust Development

development. Plan 2035 recommends maintaining and enhancing existing public services (police and fire/EMS), facilities (such as libraries, schools, parks, and open space), and infrastructure in these areas (such as sidewalks) to ensure that the needs of existing residents are met. (p. 20)

Master Plan: The 2010 *Approved Glenn Dale-Seabrook-Lanham and Vicinity Approved Sector Plan and Sectional Map Amendment* (SMA) recommends residential low land use on the subject property, with a focus on single-family detached units. Per the plan, Residential Low is defined as 0.5 to 3.5 dwelling units per acre. (p. 200 and Map 36 – Proposed Land Use on p. 202)

Planning Area/Community: 70/Glenn Dale-Seabrook-Lanham & Vicinity

Aviation/MIOZ: This application is not located within an Aviation Policy Area or Military Installation Overlay Zone.

SMA/Zoning: The 2010 *Approved Glenn Dale-Seabrook-Lanham and Vicinity Approved Sector Plan and Sectional Map Amendment* (SMA) retained the Rural Residential (R-R) zone on the subject property. The 2021 Countywide Sectional Map Amendment (CMA) rezoned the Rural Residential (R-R) to the Residential, Rural (RR) zone on the subject property. The CMA followed the intent of the 2010 SMA. A search of the analysis testimony during the CMA Public Hearing Process revealed that no testimony or written correspondence was submitted refuting the proposed RR zone for the subject property.

SECTIONAL MAP AMENDMENT ANALYSIS

Community Planning Division staff finds that pursuant to Section 27- 3601 (e) (1) Zoning Map Amendment (ZMA) of the Zoning Ordinance, there was not a mistake in the 2010 *Approved Glenn Dale-Seabrook-Lanham and Vicinity Approved Sector Plan and Sectional Map Amendment* (SMA). The current Residential, Rural (RR) zone classification is appropriate.

cc: Long-Range Agenda Notebook
Kierre McCune, Supervisor, Master Plans and Studies Section, Community Planning Department

October 21, 2022

MEMORANDUM

TO: Dominique Lockhart, Planner II, Zoning Section
VIA: Mridula Gupta, Planner III, Subdivision Section *MG*
FROM: Mahsa Vatandoost, Planner II, Subdivision Section *MV*
SUBJECT: ZMA-2022-001; Marianne Davis Trust Development

The subject 12.43-acre property is located in Tax Map 36, Grid A2. The property consists of three acreage parcels known as Parcels 420, 421, and 422; recorded in the Prince George's County Land Records in Liber 14508 at folio 443, Liber 14508 at folio 438, and Liber 21720 at folio 386, respectively; and a portion of one lot known as Lot 1 (previously recorded in Plat Book WWW 48, page 61) which was subdivided by a deed recorded in Liber 4896 at folio 436 in 1978. The property is located within the Rural Residential (RR) Zone. The applicant is requesting a zoning map amendment (ZMA) to rezone the subject property from RR Zone to Residential, Multifamily-48 (RMF-48) Zone pursuant to Section 27-3601 of the Prince George's County Zoning Ordinance.

There are no prior preliminary plans of subdivision (PPS) approved for the subject property. A new PPS and a certificate of adequacy will be required for the division of land following approval of this application. The proposed site layout and lotting pattern will be further evaluated with the PPS and must comply with all development standards and criteria contained in the Subdivision Regulations.

There are no prior plats of subdivision recorded for this property. A final plat of subdivision is required subsequent to approval of this zoning map amendment and following the approval of the PPS before any permits may be approved for development of this site.

Additional Comments (Applicable at PPS)

1. The master plan right-of-way (ROW) for master plan collector street C-340 (Eastgate Drive) is located on the subject property and the dedication of master plan rights-of-way will be reviewed at the time of PPS.
2. The property is adjacent to MD 193 (Greenbelt Road) which is a master plan arterial street. The applicant will be required to demonstrate compliance with Section 27-6206(d)(1), which limits direct access along arterial or collector streets, at the time of PPS. Adequate protection and screening from traffic nuisances will be determined in accordance with

Section 24-4102(c) of the Subdivision Regulations and Section 27-6810(d) of the Zoning Ordinance at time of PPS as well. A Phase I noise study will be required with PPS to demonstrate that any proposed residential development and outdoor recreation areas are not impacted by noise.

Recommended Conditions

None.

This referral is provided for the purposes of determining conformance with any underlying subdivision approvals for the subject property and Subtitle 24. All bearings and distances must be clearly shown on the basic plan and must be consistent with the legal descriptions of the property. There are no other subdivision issues at this time.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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Countywide Planning Division
Historic Preservation Section

301-952-3680

October 24, 2022

MEMORANDUM

TO: Dominique Lockhart, Zoning Section, Development Review Division

VIA: Thomas Gross, Acting Supervisor, Historic Preservation Section, Countywide Planning Division *TWG*

FROM: Jennifer Stabler, Historic Preservation Section, Countywide Planning Division *JAS*
Tyler Smith, Historic Preservation Section, Countywide Planning Division *TAS*
Amelia Chisholm, Historic Preservation Section, Countywide Planning Division *AGC*

SUBJECT: ZMA-2022-001; Marianne Davis Trust Development

The subject property comprises 12.32 acres located on the south side of Greenbelt Road, approximately 1,865 feet west of its intersection with Lanham Severn Road (MD 564) in the R-R Zone. The property comprises Parcels 420, 421, and 422, as shown on Prince George's County Tax Map 36-A2, and a portion of Lot 1 on the plat of subdivision entitled "Rueth's Addition to Glenn Dale," as shown in Plat Book 48 at Plat 61. The subject property is zoned R-R. The subject zoning map amendment application seeks to rezone the subject property from the R-R to the RMF-48 Zone.

Findings

1. There are two houses on the subject property. Tax records indicate that the house at 10301 Greenbelt Road was constructed in 1930, and the house at 10303 Greenbelt Road was constructed in 1911. Both houses are proposed to be demolished.
2. There are several small streams that extend through the property. Prehistoric archeological resources are often found near freshwater streams. Several prehistoric archeological sites have been identified in previous surveys in the vicinity of the subject property.

Conclusions

1. All structures located on the subject property should be recorded on a Maryland Inventory of Historic Properties (MIHP) form prior to demolition. Background historic research should be conducted to determine who resided in the houses and to determine the construction dates of each building. These MIHP forms should be submitted for review to the Historic Preservation Section before its submittal in final to the Maryland Historical Trust by the applicant.

2. Because of the moderate-to-high probability of the subject property to contain significant prehistoric and historic archeological resources, a Phase I archeology survey is recommended. The applicant should submit a draft Phase I archeology report to Historic Preservation staff with the preliminary plan application.

Recommendations

The Historic Preservation Section recommends approval of ZMA-2022-001 Marianne Davis Trust Development, with the following conditions:

1. Prior to approval of the associated preliminary plan, Phase I (Identification) archeological investigations, according to the Planning Board's *Guidelines for Archeological Review* (May 2005), are recommended on the above-referenced property to determine if any cultural resources are present. Evidence of M-NCPPC concurrence with the final Phase I report and recommendations is required prior to signature approval.
2. Upon receipt of the report by the Planning Department, if it is determined that potentially significant archeological resources exist in the project area, prior to Planning Board approval of the final plat, the applicant shall provide a plan for:
 - i) Evaluating the resource at the Phase II level, or
 - ii) Avoiding and preserving the resource in place.
3. If a Phase II and/or Phase III archeological evaluation or mitigation is necessary, the applicant shall provide a final report detailing the Phase II and/or Phase III investigations and ensure that all artifacts are curated in a proper manner, prior to any ground disturbance or the approval of any grading permits.
4. Prior to the approval of the first specific design plan, the applicant and the applicant's heirs, successors, and/or assignees, shall provide a plan for any interpretive signage to be erected and public outreach measures (based on the findings of the Phase I, II, and/or Phase III archeological investigations). The location and wording of the signage and the public outreach measures shall be subject to approval by the M-NCPPC staff archeologist. The plan shall include the timing for the installation of the signage and the implementation of public outreach measures.
5. Prior to the approval of the first specific design plan, all buildings on the subject property shall be documented through the completion of a Maryland Inventory of Historic Properties (MIHP) form according to Maryland Historical Trust (MHT) standards by a qualified 36CFR60 consultant. The draft and final MIHP form shall be reviewed and approved by Historic Preservation Section staff prior to submittal by the applicant to the Maryland Historical Trust.

Countywide Planning Division
Environmental Planning Section

301-952-3650

October 25, 2022

MEMORANDUM

TO: Dominique Lockhart, Planner III, Zoning Section, DRD

VIA: Maria Martin, Acting Supervisor, Environmental Planning Section, CWPD *MM*

FROM: Marc Juba, Planner III, Environmental Planning Section, CWPD *MJ*

SUBJECT: Marianne Davis Trust Development; ZMA-2022-001

The Environmental Planning Section (EPS) has reviewed the referral information received by EPS on September 23, 2022. The proposal is for a zoning map amendment request to rezone the subject property from RR (Residential, Rural) to RMF-48 (Residential, Multifamily-48).

The site is mostly wooded with a house located on the eastern corner of the property. Per Subtitle 27-143, neither a Natural Resources Inventory (NRI) nor a Tree Conservation Plan (TCP) are required for this application type. However, it appears that an NRI and TCP will most likely be required with further development applications as the site is greater than 40,000 square feet and contains more than 10,000 square feet of woodlands, and any development of this site will most likely result in more than 5,000 square feet of woodlands being cleared. Staff has no objections to the proposed zoning change as it will not result in any changes to the existing woodland conservation threshold (20%) or the existing afforestation threshold (15%) for the site.

No other environmental requirements have been identified for this application. This email serves in lieu of a memo.



Countywide Planning Division
Transportation Planning Section

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301-952-3680

October 26, 2022

MEMORANDUM

TO: Dominique Lockhart, Zoning Section, Development Review Division

FROM: *BAP* Benjamin Patrick, Transportation Planning Section, Countywide Planning Division

VIA:  William Capers III., PTP, Transportation Planning Section, Countywide Planning Division

SUBJECT: ZMA-2022-001: Marianne Davis Trust Development

Proposal:

The subject Zoning Map Amendment (ZMA) application seeks the rezoning of the subject property from the RR to the RMF-48 zoning district. The subject property is located on the south side of Greenbelt Road (MD 193), approximately 1,865 feet west of its intersection with Lanham Severn Road (MD 564). The Transportation Planning review of the subject application was evaluated pursuant to subsection 27 of the current Zoning Ordinance.

Master Plan Compliance:

Master Plan Right of Way

The site is subject to the 2009 *Approved Countywide Master Plan of Transportation* (MPOT) which identifies a master planned roadway on the property. The MPOT designates C-340 as a collector road with an 80-foot ultimate right-of-way that extends within the limits of the subject site. The master plan facility will be discussed in more detail in a subsequent section of this referral. Additionally, the site has frontage along Greenbelt Road (MD 193) which is identified as a master-planned arterial roadway.

Master Plan Pedestrian and Bicycle Facilities

The MPOT also identifies a planned side path that transverses through the site. The exact location and design of the facility will be further evaluated with subsequent applications.

Transportation Planning Review:

As mentioned above, the site is subject to the recommendations of the 2009 MPOT for a master plan right of ways and bicycle and pedestrian facilities. This application is seeking a rezoning of the site that would increase the allowable density. Staff finds that given the proposed increase of density to the site, the construction of the master plan roadway, C-340, will be needed to support the trips generated by the site and will help relieve congestion on the surrounding network. As a condition of

approval, staff recommends that the applicant dedicate the ultimate right-of-way for C-340 within the limits of the property consistent with the MPOT recommendation.

In consideration of the scope of this application, the Transportation Planning Section recommends approval of ZMA-2022-001 Marianne Davis Trust Development with the following condition:

1. Prior to acceptance of a preliminary plan of subdivision (PPS), the applicant and the applicant's heirs, successors, and/or assignees shall show the extent and limits of C-340 on the subject site consistent with the recommendations of the Approved 2009 Master Plan of Transportation.