



The Maryland-National Capital Park and Planning Commission  
Prince George's County Planning Department  
Development Review Division  
301-952-3530

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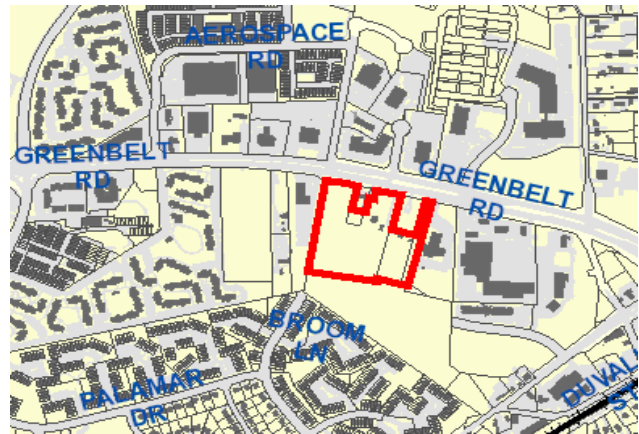
## Zoning Map Amendment

**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"><li>•Disapproval of Zoning Map Amendment ZMA-2022-001</li></ul>

<b>Location:</b> 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
<b>Applicant/Address:</b> Land Development Investors II, LLC c/o Jay Attar 1 Stone Chapel Lane Pikesville, MD 21208	
<b>Staff Reviewer:</b> Dominique Lockhart <b>Phone Number:</b> 301-952-3411 <b>Email:</b> 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/](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](http://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.