

Case No. DSP-04010/03

Applicant: DB Aster, LLC¹

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ORDER AFFIRMING PLANNING BOARD DECISION,
WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in PGCPB No. 11-39, to approve with conditions a detailed site plan for 284 fee-simple townhouse lots, and 39 condominium townhouses for a total of 323 dwelling units, on property described at 23.57 acres of land in the R-18 Zone, for a project referred to as Hunter's Ridge, located in the northwest quadrant of the intersection of Landover Road (MD 202) and 75th Avenue, between John Hanson Highway (US 50) and Martin Luther King, Jr. Highway (MD 704), Landover, is:

AFFIRMED, for the reasons stated by the Planning Board, whose decision is hereby adopted as the findings of fact and conclusions of law of the District Council, except as otherwise provided herein:

Affirmance of the Planning Board's decision is subject to the following conditions:

1. Prior to signature approval of this detailed site plan, the Applicant shall provide the required information or make the following revisions to the plans:
 - a. Add a brick-elevation tracking table to the site plan. This table may be combined with the High Visibility End Unit table.

¹ On or about February 13, 2012, the Clerk of the County Council and the Director of the Planning Board received documentation from Gibraltar Capital and Asset Management that DB Aster, LLC, by virtue of a Deed dated December 20, 2011, and duly recorded among the Land Records of Prince George's County in Liber 33214 at Folio 062, was the new owner of Hunter's Ridge, formerly owned by Metro-Landover Developers, LLC.

- b. Add site plan notes as follows:

"This Detailed Site Plan has been approved subject to all covenants, easements, servitudes, rights-of-way, and other restrictions, recorded or unrecorded, which were in effect on the date of approval."

"At least 60% of the units shall have a full front façade of brick (excluding gables, bay windows, trim, and doors)."

"The side elevations of the units (including both townhouses and condominium units) shown on the site plan that are designated as high visibility units shall consist of one story of brick and a minimum of three architectural features, in a balanced composition."

"In addition to the high visibility units, the units on Lots 16-24, Block C, and Lots 20-36, Block B that are directly visible (by unbroken line of sight) from MD 202 shall have brick or stone finish on visible front (or rear) facades and on all side elevations which face or stand at an angle less than 90 degrees from the MD 202 right-of-way. Instead of full brick treatment, those side elevations can also choose to have one story of brick and a minimum two architectural features, in a balanced composition."

"No building stick shall be all vinyl siding."

- c. Provide a new approved stormwater management concept plan. The concept plan shall be correctly reflected on the DSP.
- d. Provide upgraded treatment for garage doors for all 26 units located in the three buildings fronting MD 202; and the units on Lots 1-4, Block D; Units A, B, C, and D on Bearberry Drive; and Units A, B, C, and D on Pearlberry Drive, to be reviewed and approved by the Urban Design Section. Such upgraded treatment may include decorative windows, a decorative panel pattern, or other treatments that provide visual details and interest.
- e. Provide additional trees along the two main streets, to the extent practical, to be reviewed and approved by the Urban Design Section as the designee of the Planning Board.
2. The Applicant and the Applicant's heirs, successors, or assignees shall provide regular shuttle bus service for residents to Metrorail in perpetuity.
3. Prior to issuance of building permits for proposed residential structures, the Applicant shall submit certification by a professional engineer with competency in acoustical analysis to the Environmental Planning Section demonstrating that the design and construction of building shells within the 65 dBA Ldn noise corridor of Landover Road will attenuate noise to interior noise levels of 45 dBA Ldn or less.

4. Prior to issuance of the first building permit, the Applicant and the Applicant's heirs, successors, or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation (DPW&T) for placement of a Class III bikeway signage along 75th Avenue.
5. Prior to issuance of the 250th building permit, the Applicant shall submit to the Urban Design Section confirmation that it has paid, to an appropriate public agency or community organization, recreational facilities funds of \$500,000 for off-site recreational facilities serving the surrounding community.
6. Prior to issuance of the 250th building permit, all on-site private recreational facilities shall be completed and be available for use by residents.
7. At the time of final plat, the following notes shall be added to the plat:

"This Final Plat has been approved subject to all covenants, easements, servitudes, rights-of-way, and other restrictions, recorded or unrecorded, which were in effect on the date of approval."

"The Applicant and the Applicant's heirs, successors, or assignees shall provide a financial contribution of \$210 to the Department of Public Works and Transportation for placement of a Class III bikeway signage along 75th Avenue. The payment shall be received prior to the issuance of the first building permit."

Affirmance is also subject to the following additional condition, after review of the administrative record, for the following reasons, which the District Council hereby further adopts as its findings of fact and conclusions of law.

The record reflects that while this DSP was pending review before the Planning Board, litigation was also pending in the Court of Special Appeals—*Joseph S. Rogers v. DB Aster, LLC*, Case No. 1450, Sept. Term 2010—over the ownership of the right-of-way known as “Mathias Road.” On or about March 7, 2012, the Court of Special Appeals issued an unpublished opinion, which remanded that case to the Circuit Court for Prince George’s County for further proceedings on the issue of ownership over the right-

of-way known as "Mathias Road." Because of pending litigation,² during oral argument on March 12, 2012, the Applicant and Joseph S. Rogers agreed to the following condition:

8. No development shall take place within the right-of-way (contested) known as "Mathias Road" until such time as all issues concerning the use and ownership of such right-of-way have been finally determined by the disposition of the current litigation between the parties (Court of Special Appeals No. 1450, Sept. Term 2010), by final and unappealable judicial decision or settlement by the parties.

Ordered this 26th day of March, 2012, by the following vote:

In Favor: Council Members Campos, Davis, Franklin, Harrison, Lehman, Olson, Patterson, Toles and Turner

Opposed:

Abstained:

Absent:

Vote: 9-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON
REGIONAL DISTRICT IN PRINCE GEORGE'S
COUNTY, MARYLAND

By: _____
Andrea C. Harrison, Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

² See *City of Bowie v. Prince George's County*, 384 Md. 413 (2004) (principles of equity compel a tolling when a developer cannot proceed administratively because of pending litigation).