

Westbard Self Storage, Limited Site Plan Amendment No. 82017011A

 Marco Fuster, Planner Coordinator, Area 1, marco.fuster@montgomeryplanning.org 301.495.4521

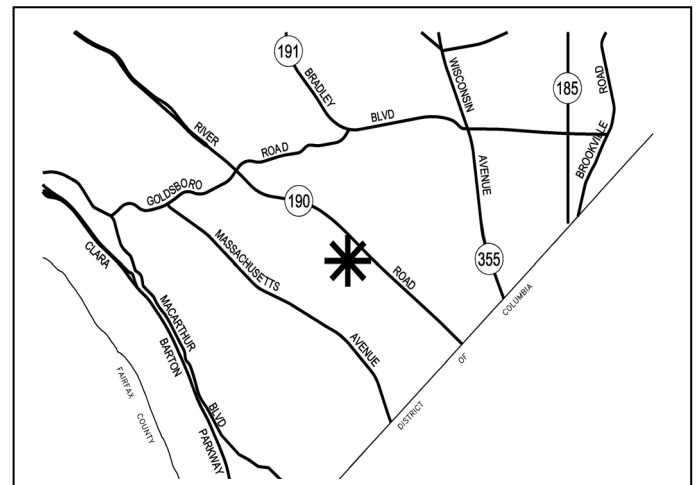
 Stephanie Dickel, Supervisor, Area 1, stephanie.dickel@montgomeryplanning.org, 301.495.4527

 Elza Hisel-McCoy, Chief, Area 1, Elza.Hisel-McCoy@montgomeryplanning.org, 301.495.2115

Completed: 7.13.2020

Description

- Request to revise the front and rear building setbacks and confirm the Parcel 1 Parkland Dedication area
- IM Zone
- Current use: Active construction site
- Located at 5204 River Road, Bethesda, MD
- 0.98 gross acres
- Applicant: Bethesda Self Storage Partners, LLC
- Acceptance date: April 14, 2020
- Review Basis: Chapter 59



Summary

- Staff recommends approval of the Site Plan Amendment, with conditions.
- Proposal for revisions to the front and rear building setback and confirmation of the Parcel 1 Parkland Dedication area.
- No changes to the building footprint or location are proposed. The front setback is being corrected to fully address the building layout/overhang as originally proposed.
- The rear setback is being updated to reflect the recently finalized location of the Parcel 1 Park Dedication area on the western boundary of the subject Property.
- The decreased setback figures remain considerably greater than the minimum required for the zone.
- Staff received correspondence from community groups and citizens. Copies of the correspondence are attached and discussed herein.
- In February 2019, the Applicant conveyed fee simple ownership of Parcel 177, identified as part of the historical location of the White's Tabernacle No. 39 of the Ancient United Order of Sons and Daughters, Brothers and Sisters of Moses Cemetery, to the Parks Department in 2019 per Condition 20 of Westbard Self Storage Preliminary Plan 120170280. Parcel 177 is not part of the approved Site Plan nor part of this Amendment application.

TABLE OF CONTENTS

SECTION 1: RECOMMENDATION AND CONDITIONS	3
SECTION 2: SITE DESCRIPTION Site Vicinity and Analysis	4
SECTION 3: AMENDMENT DESCRIPTION Previous Approvals Proposed Amendment	5
SECTION 4: ANALYSIS AND FINDINGS	9
SECTION 5: COMMUNITY CORRESPONDENCE	10
SECTION 6 - RECOMMENDATION AND CONCLUSION	10

SECTION 1: RECOMMENDATION AND CONDITIONS

Staff recommends approval of the Site Plan Amendment 82017011A for revisions to the front and rear building setbacks, confirmation of the Parcel 1 Parkland Dedication area and associated adjustments to the data table. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions. All other previously approved conditions remain in full force and effect:

13. Parks Department

- a. The Applicant must add the following note to the Certified Site Plan Amendment must revise notes to include the following text associated with:

M-NCPPC may require minor changes during the Park Construction Permit process for Parcel 1 and the Park easement areas as deemed appropriate by Parks and Planning staff without requiring amendment of the Project Approvals, potentially including revisions to site grading, the location of paving, lighting, benches, signage, or other changes of similar nature.

- b. The locations and details of the interpretive signs along Outlet Road must be shown on the Certified Site Plan subject to Staff approval. However, further refinement of the details and locations may occur as part of the Park Construction Permit process.

- c. The Applicant must add a note on Architectural sheet 007 to read:

Content for the interpretive signs will be created by M-NCPPC Cultural and Historical Resources staff in close coordination with the community during the Willett Branch Greenway Facility Planning process.

14. Prior to the submittal of the Certified Site Plan for this Amendment the Applicant must coordinate with Staff on any necessary clarifications, corrections and updates for the plans, notes, index and tables.

SECTION 2: SITE DESCRIPTION

Site Vicinity and Analysis

The Property is located south of River Road in the southwest quadrant of the intersection of River Road and the Capital Crescent Trail and is bordered by a McDonald's restaurant on the north, the Capital Crescent Trail on the east, the Willett Branch on the west, and industrial uses to the south (Property of Subject Property). Access to the Site is provided from a County-maintained access road along the eastern frontage, parallel to the Capital Crescent Trail. The existing structures on the Property have been demolished and the site is currently being prepared for sheeting and shoring. The Site contains no forest, the Site topography slopes about 12 feet down, from east to west, towards the adjacent Willett Branch, and a portion of the Site is within the Willett Branch stream valley buffer.

The neighborhood surrounding the Property includes multi-family residential uses, commercial uses, retail uses, and industrial uses. Willett Branch stream to the west is currently contained in a concrete channel.

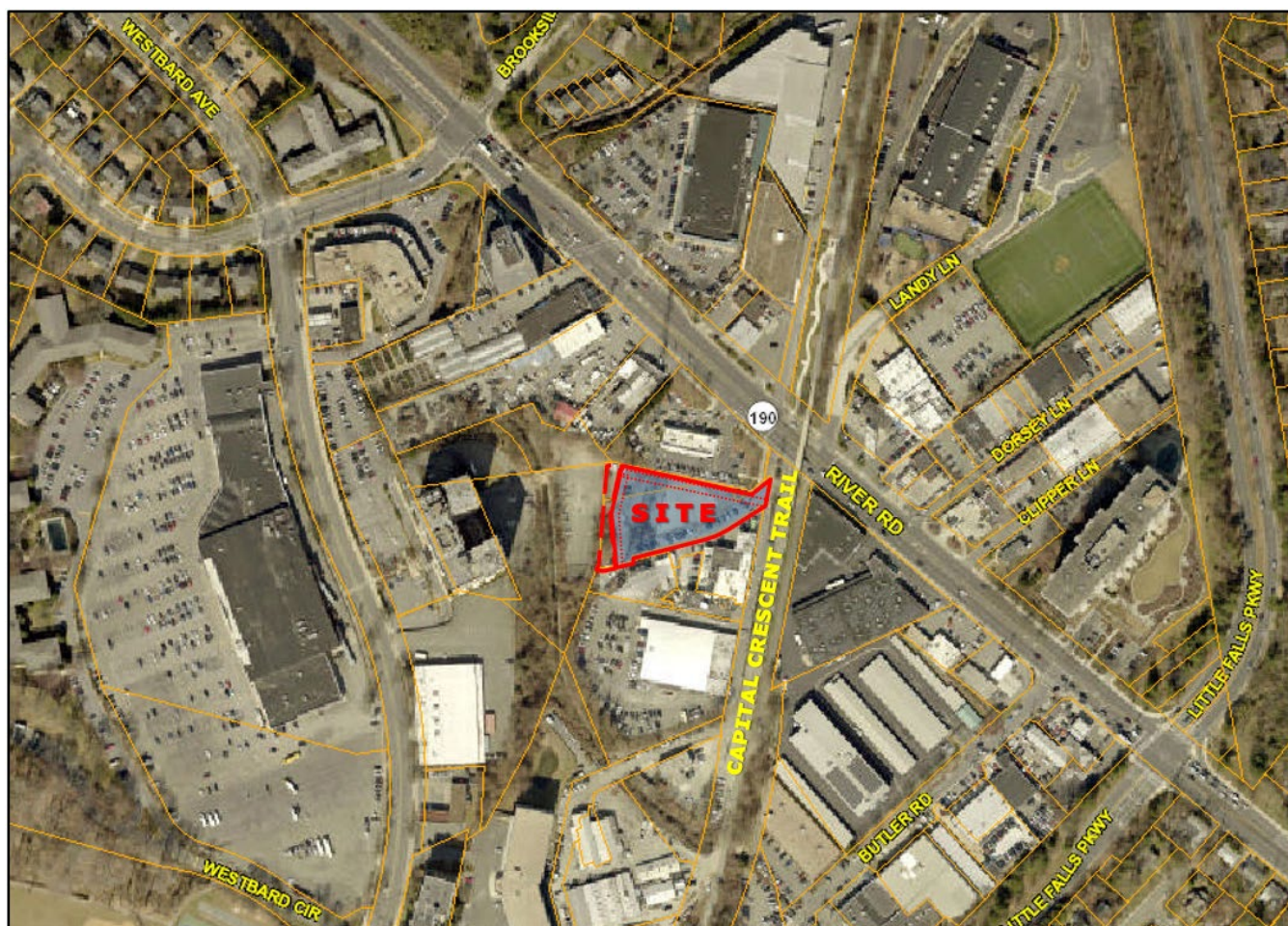


Figure 1 – Vicinity Map

North ↑

Site Description

The total tract area is about 0.98 acres (42,812 square feet).

SECTION 3: PROPOSED AMENDMENT

Previous Approvals

The Planning Board approved Westbard Self-Storage Preliminary Plan No. 120170280 (MCPB No. 17-122) by resolution dated January 12, 2018. The Project created one lot for a new self-storage building and one Parcel (Parcel 1) for dedication to Parks for the future implementation of the Willett Branch Greenway. The Preliminary Plan also included the conveyance of the existing Parcel 177 as described below. The self-storage building has a maximum total density of 195,527 square feet of self-storage uses, including 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of “cellar” area excluded from the definition of GFA under Section 59.1.4.2. of the Zoning Ordinance.

Parcel 177 is part of the original cemetery property known as White’s Tabernacle No. 39 of the Ancient United Order of Sons and Daughters, Brothers and Sisters of Moses Cemetery. On February 28, 2019 the Applicant conveyed to M-NCPPC, at no charge, the ownership of Parcel 177, per Condition 20 of Westbard Self Storage Preliminary Plan 120170280 (the remainder of the cemetery site is under ownership of the Housing Opportunities Commission). Parcel 177 is not part of the approved Site Plan nor part of this Amendment application.

The Planning Board concurrently approved Westbard Self-Storage Site Plan No. 820170110 (MCPB No. 17-123) by resolution dated January 12, 2018 for a 50-foot-tall Self-Storage building. The Site Plan approval included the development standards and addressed details of the building architecture, landscaping, and other amenities such as the Sector-Planned Outlet Road shared-use path along the northern edge of the Site (which includes native landscape species, benches, historical display boards and lighting).

The building is situated on the Site to preserve the Stream Buffer and future Willett Branch Greenway to the west and the Outlet Road shared-use path to the north.

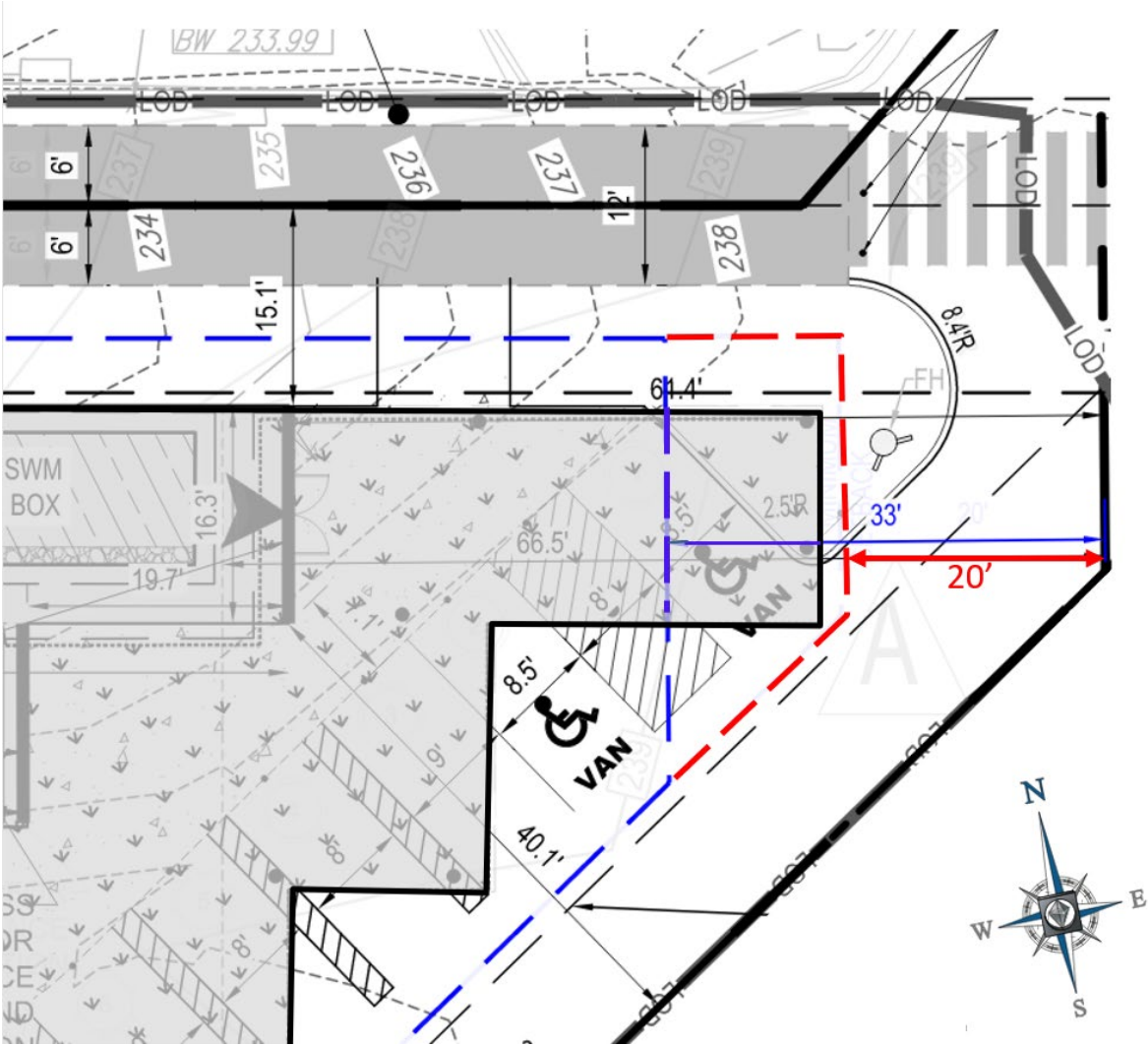


Figure 3– Front Setback Exhibit. Blue line shows setback per approved data table; redline shows proposed.

The setback figures for the west side of the building (closest to the stream buffer) could not be precisely determined at the time of the original Planning Board hearing because the extent of the Park dedication for Parcel 1 had not yet been established (Preliminary Plan Condition No. 18). Now that the extents of the dedication have been finalized, the revised rear setback reflects the dedication and proposes to reduce the rear setback, from 19 feet, to 16 feet. The revised setback is still significantly in excess of the minimum 10-foot setback required by the zone.

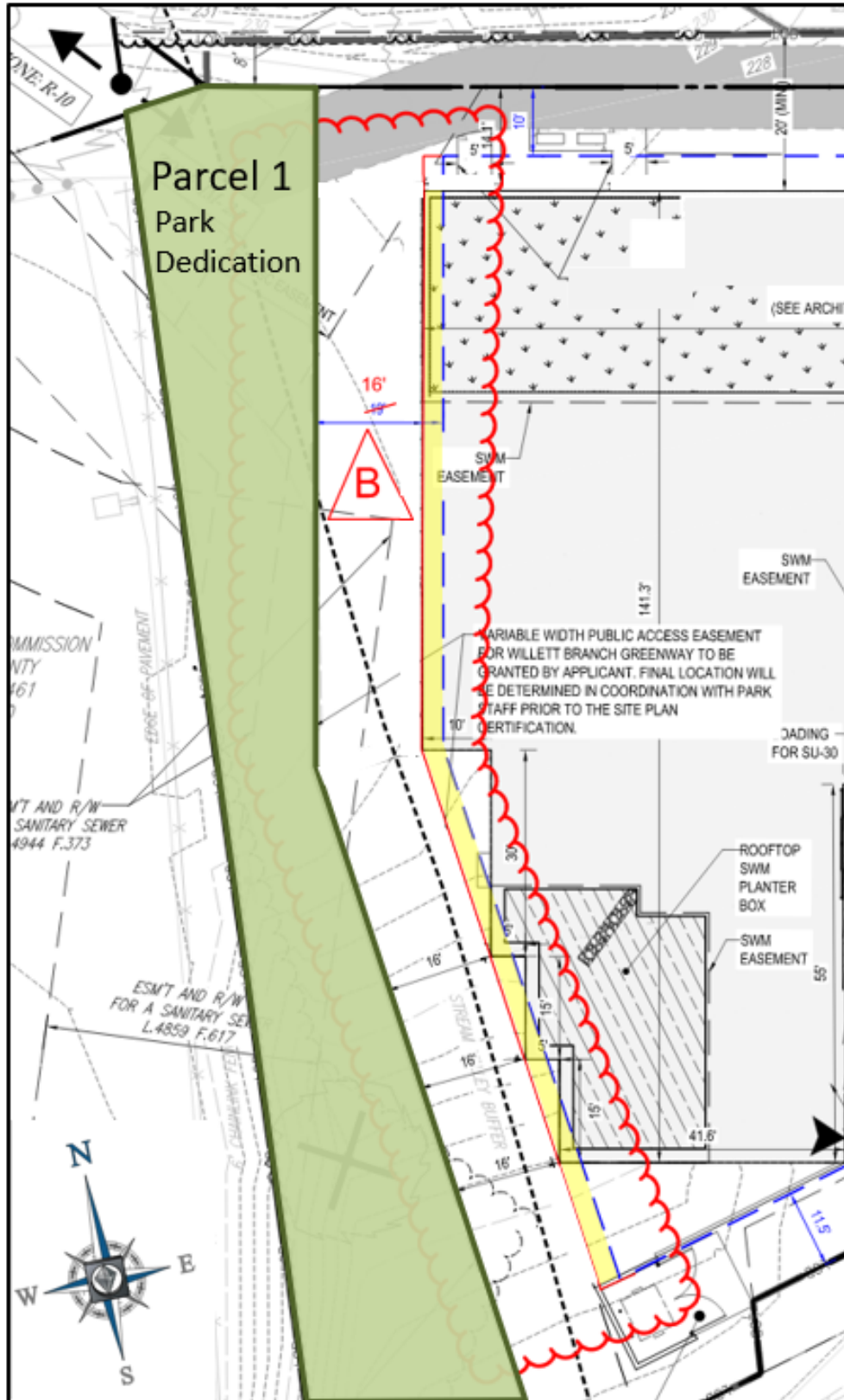


Figure 4– Rear Setback Exhibit.
 Blue dashed line shows setback per approved data table; solid redline shows proposed.
 Yellow area highlights the setback change.

SECTION 4 – ANALYSIS AND FINDINGS

FINDINGS

This Amendment complies with the general requirements and development standards of the Zoning Ordinance and Subdivision Regulations and substantially conforms with the goals and recommendations of the 2016 *Westbard Sector Plan*. The proposed modifications to Site Plan No. 820170110 will not alter the overall character or impact of the development with respect to the original findings of approval, except as follows:

- a. *satisfies applicable use standards, development standards, and general requirements under this Chapter;*
- i. *Division 4.8. Light Industrial Zones*

Development Standards

The Westbard Self Storage tract area is approximately 0.98 acres, zoned IM-2.5 H-50. The following Data Table shows the Application’s conformance to the development standards of the zone.

Table 1 -- Site Plan Data Table				
Section 59.4	Development Standard	Permitted/ Required	Approved 820170110	Proposed 82017011A
	Tract Area (Square Feet)	n/a	42,812 (0.98 acres)	42,812 (0.98 acres)
	Proposed ROW Dedication (min.)	n/a	579	579
	Parcel 1 Dedication	n/a	n/a	4,792
	Site Area (max.)	n/a	42,233 (0.969 acres)	37,441 (0.86 acres)
4.8.2.A.1	Maximum Density (FAR/SF)			
	IM-2.5 H-50	2.5/107,030	2.5/107,030	2.5/107,030
	Cellar area exempt from Gross Floor Area per 59.1.4.2.G		88,497	88,497
	Total		195,527	195,527
4.8.2.A.1	Building Height (feet)			
	IM-2.5 H-50	50 feet	50 feet	50 feet
4.8.3.A.1	Amenity Open Space (minimum)			
	Public Open Space (% of Site/sf.)	10/4,223	40.2/16,974	40.2/16,974
4.8.3.A.3	Minimum setbacks			
	Front	10 feet	33 feet	20 feet
	Rear	10 feet	19 feet	16 feet
	North Side	10 feet	10 feet	10 feet
	South Side	0 feet	11.5 feet	11.5 feet
6.2.4.B	Parking spaces, minimum			
	Vehicular	12	18	18
	Bicycle	11	11	11

SECTION 5: COMMUNITY CORRESPONDENCE

The Applicant has complied with all submittal and noticing requirements. Sign postings regarding the Site Plan Amendment were installed on the site frontages, and written notice letters for the application and hearing were sent, however a community meeting for the Amendment was not required. As of the writing of this report, Staff has received two inquiries from the community concerning this application. These inquiries included general concern over the accuracy of the plans, potential for the building footprint relocating into the stream valley buffer, and enforcement of the approved locations. Staff has responded to these inquiries.

Staff also received correspondence regarding the excavation currently underway associated with construction of the approved development, and the potential for impacting the White's Tabernacle No. 39 of the Ancient United Order of Sons and Daughters, Brothers and Sisters of Moses Cemetery. Pursuant to the October 9, 2019 Phased Final Forest Conservation Plan approval for Sheeting and Shoring (Attachment C), the Applicant has hired a professional archeologist qualified to recognize human remains and funerary objects to monitor the drilling work associated with the tiebacks in the northwest corner of the building foundation, which is closest to the cemetery. The letter sets forth notification procedures if human remains or funerary objects are found and further requires reporting of their inspections. To date, the archeologist has filed four reports, which are included as Attachment D, and they indicate that no human remains, funerary artifacts, grave shaft features, or cultural features associated with the River Road Moses Cemetery have been observed during monitoring.

Staff has included all correspondence in Attachment B.

SECTION 6: RECOMMENDATION AND CONCLUSION

The proposed modifications to the Site Plan will not alter the overall character or impact of the development with respect to the original findings or approvals. Staff recommends approval of Site Plan Amendment 82017011A with the conditions specified at the beginning of the staff report.

ATTACHMENTS

- A. Previous Resolutions
- B. Correspondence
- C. Phased Final Forest Conservation Plan approval conditions
- D. Archeologist Field Reports



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 17-122
Preliminary Plan No. 120170280
Westbard Self-Storage
Date of Hearing: December 14, 2017

JAN 12 2018

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on April 26, 2017, Bethesda Self-Storage Partners, LLC, ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create one lot for a new self-storage building with a maximum total density of 195,527 square feet of self-storage uses, including 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of "cellar" area excluded from the definition of GFA under Section 59.1.4.2., as well as one new dedication parcel for future implementation of the Willett Branch Greenway, on 1.37 acres of land in the IM-2.5 H-50 and R-10 zones, located at 5204 River Road ("Subject Property," "Property," or "Site"), in the Westbard Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120170280, Westbard Self-Storage ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 4, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 14, 2017, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on December 14, 2017, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Fani-Gonzalez, with a vote of 4-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, and Patterson voting in favor, with Commissioner Cichy being absent.

Approved as to
Legal Sufficiency

MNCPPC Legal Department
www.montgomeryplanningboard.org

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120170280, subject to the following conditions:¹

1. This Preliminary Plan is limited to one lot for a maximum total density of 195,527 square feet of self-storage uses, including 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of “cellar” area that is excluded from the definition of GFA under Section 59.1.4.2., as well as one new dedication parcel for future implementation of the Willett Branch Greenway Park.
2. The Applicant must comply with the conditions of approval for the preliminary forest conservation Plan as modified by the Final Forest Conservation Plan.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated December 5, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) – Water Resources Section in its storm water management concept letter dated November 9, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. The Planning Board accepts the recommendations of the Montgomery County Department of Fire and Rescue (MCFRS) in its letter dated November 3, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCFRS, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.

¹ For the purpose of these conditions, the term “Applicant” shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

7. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
8. The record plat must show necessary easements.
9. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Resolution.
10. The certified Preliminary Plan must contain the following note:
Unless specifically noted on this Plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-Site parking, Site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
11. No recording of plats prior to Certified Site Plan approval. The Applicant may obtain permits for demolition, below-grade sheeting and shoring, and associated sediment control, prior to Certified Site Plan approval, but only after certification of the Final Forest Conservation Plan.
12. No release of any above grade building permit for new development on the Site will be permitted prior to recordation of plat(s) for the portion of the Property associated with the applicable building permit.
13. The Applicant must satisfy the provisions for access and improvements which are associated with each plat, as required by MCDOT.
14. The Applicant must provide and show on the applicable final record plat(s) the following right-of-way dedication consistent with the Westbard Sector Plan and Montgomery County Code Chapter 50 Subdivision Regulation requirements:
 - a. ten (10) feet from the existing pavement centerline along the Property frontage for New Connector Road (B-2) for an ultimate right-of-way width of 54-feet.
15. Not later than the final use and occupancy permit, the Applicant must provide the sector-planned minimum 12-foot-wide Outlet Road shared-use bicycle/pedestrian path, between Street B-2 and the northern Property line, with associated landscaping and lighting as illustrated on the Certified Site Plan.

16. Prior to final use and occupancy permit, the Applicant must grant an easement to the M-NCPPC for the Outlet Road shared-use path. The terms and form of the dedication must be approved by the Montgomery County Department of Parks and the M-NCPPC General Counsel's Office prior to certification of the Preliminary Plan, and it must be recorded in the Montgomery County Land Records. At a minimum, the easement must address the following:
 - a. Entitlement for open and unobstructed public use of the easement for all customary pedestrian, bicycle, general public, and emergency access. The easement granted to the public is a public access easement;
 - b. Obligation for the Applicant to design and construct the shared use path as shown on the Certified Site Plan at the Applicant's expense;
 - c. Obligation for the Applicant to maintain and repair the shared use path, as shown on the Certified Site Plan, at the Applicant's expense, unless such obligation has been assumed by another entity as part of the overall trail maintenance;
 - d. Obligation for the Applicant to keep the shared use path free of snow, litter and other obstructions and hazards at all reasonable times, at its expense, unless such obligation has been assumed by another entity as part of the overall trail maintenance;
 - e. Entitlement for the Applicant or its designee to close the shared use path for normal maintenance and repair at reasonable times and upon reasonable prior notice to the public.
 - f. This pathway corridor should be formally referred to as Outlet Road on all plans per the Westbard Sector Plan.

17. If the Applicant is unable, after good faith efforts, to obtain permission to conduct the work or record the necessary easements from the owner of the off-Site portion of the path specified in Condition 15, within a reasonable time period in advance of the final use and occupancy permit, the Applicant must provide only the on-Site portions of Conditions 15 and 16, as illustrated on the Certified Site Plan, and is deemed to have otherwise met conditions 15 and 16.

18. Prior to final use and occupancy permit, the Applicant must dedicate Parcel 1 to the Maryland-National Capital Park & Planning Commission ("M-NCPPC") for use as public parkland. The final boundary of Parcel 1 must be determined by M-NCPPC Staff and the Applicant prior to Certified Preliminary Plan. The terms and form of the dedication must be approved by the Montgomery County Department of Parks and the M-NCPPC General Counsel's Office prior to certification of the Preliminary Plan, and it must be recorded in the Montgomery County Land Records. Prior to dedication, the Applicant must remove all existing infrastructure, pavement, debris, etc. from the parcel, as well as remove invasive species, and scarify and amend topsoil to provide a vegetated base with native seed mix.

19. Prior to final use and occupancy permit, the Applicant must grant an easement to the M-NCPPC from the eastern boundary of Parcel 1 to the building on Lot 1. The easement must grant the Montgomery County Department of Parks the right to plant, maintain, and program the easement area. The terms and form of the easement must be approved by the Montgomery County Department of Parks and the M-NCPPC General Counsel's Office prior to certification of the Preliminary Plan, and it must be recorded in the Montgomery County Land Records.
20. Parcel 177:
 - a. The Applicant must convey to M-NCPPC in fee-simple at no cost to M-NCPPC Parcel 177, to take place not later than the first above-grade building permit.
 - b. Prior to release of the final use-and-occupancy permit for the Project, the Applicant must contribute \$45,000 to the Montgomery County Department of Parks for an archeological assessment, other testing as required, and associated stewardship of Parcel 177.
 - c. The Applicant must not perform any ground-disturbing work of any kind (e.g., clearing, grading, construction staging, storage of materials, etc.) on Parcel 177 prior to conveyance to the Maryland-National Capital Park and Planning Commission.
21. If human remains or funerary objects are encountered at any time on any properties subject to Preliminary Plan 120170280 (Parcels 242, 191, 217, and 177, on Tax Map #HM13, Bethesda, Maryland), then the Historic Preservation Section of the Montgomery County Planning Department must be notified immediately to allow documentation for the Montgomery County Planning Board Burial Sites Inventory. This Condition applies to owners, their successors, and owners' agents of land retained, dedicated, or sold by the Applicant pursuant to Preliminary Plan #120170280, and to all entities that hold easements on these properties (Parcels 242, 191, 217, and 177, Tax Map #HM13, Bethesda, Maryland).

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. Having considered the technical review requirements of Section 50.4.3, the Planning Board finds that the Application meets all applicable sections. The size, width, shape, and orientation of the lot and parcels are appropriate for the location of the subdivision, considering the recommendations included in the Sector Plan, described in more detail below, and for the type of development or use contemplated.

As evidenced by the Preliminary Plan, the Subject Property is sufficiently large to accommodate the approved uses. The Planning Board received testimony questioning the appropriateness of the Application's inclusion of 88,497 square feet of "cellar" area that is not part of the project's gross floor area. As described in more detail in the Staff Report, the Zoning Ordinance is clear that cellars, defined as "[t]he portion of a building below the first floor joists of which at least half of the clear ceiling height is below the average elevation of the finished grade along the perimeter of the building," are expressly excluded from the definition of "gross floor area." During building permit review, MCDPS will evaluate the Applicant's construction documents and ensure that the Applicant is permitted to build only the GFA and cellar area that meets the Zoning Ordinance definition up to the maximum approved by the Planning Board.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The Property is within the boundaries of the 2016 Westbard Sector Plan. The general goals of the Sector Plan are to provide land use, zoning, and urban design recommendations that will incentivize property owners to make investments and improve the quality of life in Westbard. Among these goals is the retention of light industrial uses, the naturalization of the Willett Branch stream into a major amenity that will become a unifying feature of the community, and a shared-use path between Westbard Avenue on the west and River Road and the Capital Crescent Trail on the east.

The Preliminary Plan meets these goals. The Application's self-storage use is permitted in the zone and the development will replace other industrial uses on the Subject Property. The Preliminary Plan contributes to the naturalization of the Willett Branch and realization of the Greenway Park in several ways: through conveyance of ownership of Parcel 177, over one-third of an acre, to M-NCPPC; through a combination of dedication and easements to M-NCPPC along the Willett Branch side of the Subject Property; and through a financial contribution toward archeological assessment and stewardship of Parcel 177.

Also, the Preliminary Plan will provide the recommended Outlet Road shared-use path connecting the Capital Crescent Trail to the Greenway along the northern edge of the Subject Property. As conditioned, the Preliminary Plan

requires the Applicant to make good faith efforts to work with its neighbor to provide the full, Sector Plan recommended width of the Outlet Road shared-use path. In the event the Applicant is unable to secure necessary approvals from its neighbor to do so, the Applicant will still make improvements and provide the necessary easement on its property to realize the Sector Plan goal of encouraging public access through this portion of the Subject Property. In either case, the shared-use path will present a safe and inviting route for the public.

The Sector Plan also has a several recommendations regarding the use of green roofs, meeting stormwater management onsite, and avoiding the use of stormwater management waivers. The Application readily meets the Sector Plan recommendation on green roofs/and stormwater management volume treatment. Although several citizens expressed a desire for changes to the stormwater management concept plan to allow greater groundwater infiltration into Willett Branch, an employee of the MCDPS testified authoritatively at the hearing that, among other factors considered by MCDPS in its review of the stormwater management concept plan, groundwater infiltration would be unlikely on the Subject Property given its highly compacted soil conditions. Because MCDPS is the agency with both the technical expertise and the legal mandate to review and approve the details of stormwater management concept plans, the Board routinely defers to MCDPS on these issues. Further, Condition #8 of the stormwater management concept plan requires revision of the plans to provide some treatment of the paving surfaces, which will further enhance the stormwater management for the development envisioned by the Preliminary Plan.

- 3. Public facilities will be adequate to support and service the area of the subdivision.*

Local Area Transportation Review

Based on the *2016-2020 Subdivision Staging Policy* transportation impact criteria, the Preliminary Plan generates fewer than 50 net new peak-hour person trips; therefore, the Application is not subject to a Local Area Transportation Review analysis. Because of the provided pedestrian and bicycle improvements, internal circulation and Site access point, the Preliminary Plan can accommodate development that will be safe, adequate, and efficient.

Other Public Facilities

Other public facilities and services are available and will be adequate to serve the development. The Subject Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the Subject Property will have appropriate access for fire and rescue vehicles. Additional public facilities and services, such as police stations, firehouses, and health services are operating

according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Subject Property. Electrical, telecommunications, and gas services are also available to serve the Subject Property.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

A. Forest Conservation

As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Site contains substantial areas of environmentally sensitive resources and high priority settings associated with stream valley buffers. This Application will result in an enhancement of these settings as the building and associated infrastructure are designed to remain outside of the existing stream valley buffer. Additionally, the impervious areas on Lot 1 will be reduced and a considerable green roof area and storm water management features will be provided as part of the new building. Parcel 177, the R-10 portion of the Site (where the stream is located), will be conveyed to the Maryland-National Capital Park and Planning Commission per the Sector Plan recommendations.

The afforestation/reforestation requirements triggered by the Preliminary Plan are approximately 0.20 acres. The afforestation/reforestation requirements will be met offsite by a fee-in-lieu payment.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to a Protected Tree as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. An existing gravel parking pad overlaps the CRZ of the tree to be impacted. Any modification or careful demolition of the parking area, even for

stream valley buffer enhancement purposes, would cause an impact to the Protected Tree and trigger Variance requirements.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The trail connection that results in impacts to the subject tree is specifically recommended in the Sector Plan. Furthermore, the plans and variance request propose only minor impacts to the subject tree rather than removal. Applicants are typically expected to comply with Sector Plan recommendations, and a variance request for a minor impact such as the one proposed in this Application would be granted to any Applicant in a similar situation.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested Variance is based on implementation of a specific trail connection recommendation the Sector Plan. The Variance can be granted under this condition if, as in this case, the impacts are avoided or minimized and any necessary mitigation is provided.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested Variance is a result of the Sector Plan recommendations for the Subject Property and not because of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Site currently has a high level of impervious surfaces and very little or no stormwater management. The overall plans will provide considerable stormwater management features and green space enhancements where none exist today. MCDPS Staff approved the stormwater management concept for the Application on November 9, 2017. The stormwater management concept proposes to meet required stormwater management goals with the use of green roofs and micro-bio retention planter boxes. The full treatment is provided and no stormwater management waivers are associated with the Preliminary

Plan. Furthermore, as conditioned, demolishing the dilapidated pavement and compacted gravel pad currently existing within the stream valley buffer and replacing with green space will significantly enhance the stream valley corridor, further improving the associated water quality. Therefore, the Application, even with the Variance, will enhance water quality and not violate State water quality standards or cause measurable degradation in water quality.

No mitigation is required for Protected Trees impacted but retained.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

This finding is based upon the determination by MCDPS that the stormwater management concept plan meets applicable standards. The MCDPS Stormwater Management Section approved the stormwater management concept on November 9, 2017. According to the approval letter, the stormwater management concept meets stormwater management requirements via environmental site design to the maximum extent practicable using green roofs.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 12 2018 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of

this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, January 11, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 17-123
Site Plan No. 820170110
Westbard Self-Storage
Date of Hearing: December 14, 2017

JAN 12 2018

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on April 26, 2017, Bethesda Self Storage Partners, LLC, ("Applicant") filed an application for approval of a site plan for construction of a new self-storage facility with a maximum total density of 195,527 square feet of self-storage uses, including 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of "cellar" area that is excluded from the definition of GFA under Section 59.1.4.2, on 0.98 acres of IM-2.5 H-50-zoned-land, located at 5204 River Road ("Site," "Property", or "Subject Property"), in the Westbard Sector Plan ("Sector Plan") area; and

WHEREAS, the site plan application for the Subject Property was designated Site Plan No. 820170110, Westbard Self-Storage ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated December 4, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 14, 2017, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, on December 14, 2017, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Fani-Gonzalez, with a vote of 4-0; Commissioners Anderson, Dreyfuss, Fani-Gonzalez, and Patterson voting in favor, with Commissioner Cichy being absent.

Approved as to
Legal Sufficiency

8787 George Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820170110 for construction of a new self-storage facility with a maximum total density of 195,527 square feet of self-storage uses, including 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of "cellar" area that is excluded from the definition of GFA under Section 59.1.4.2., the Subject Property, subject to the following conditions:¹

Conformance with Previous Approvals

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120170280.

Density

2. Maximum Density

This Site Plan is limited to 195,527 square feet of total development, including up to 107,030 square feet of Gross Floor Area (GFA) allowed under the development standards of the zone, and up to 88,497 square feet of cellar space excluded from the definition of GFA per Section 59.1.4.2.G.

Environment

3. Forest Conservation

The Applicant must obtain Staff certification of the approved Final Forest Conservation Plan (FFCP) from the Planning Department prior to clearing, grading or demolition. The Final Forest Conservation Plan must address the following:

- a. Clarify net tract on the FCP to reflect dedication of Willett Branch parcels. Revise tables, notes, and figures accordingly.
- b. Expand the LOD (on all applicable sheets) to address demolition of existing dilapidated pavement surfaces and dumped materials on Lot 1 (revisions subject to Staff approval).
- c. Prior to clearing, grading and demolition the forest conservation requirements must be addressed by a fee-in-lieu payment to satisfy the required credits as determined in the certified Forest Conservation Plan.
- d. Clarify interim treatment for the area below the existing retaining wall (which is currently paved) and in the Phase 1 LOD for grading and utility work.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Open Space, Facilities and Amenities

4. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities on the Subject Property including, but not limited to pedestrian pathways, landscaping, and hardscape areas.

Transportation & Circulation

5. Subdivision Staging Policy

Consistent with the Subdivision Staging Policy requirements, the Applicant must make good-faith efforts to secure permission from the abutting property to the north (McDonald's) to provide an ADA-compliant pedestrian curb ramps on the Site frontage, between the on-Site sidewalk and existing sidewalk along New Connector Road (B-2). As determined by Staff, if the Applicant is unable, after good faith efforts, to obtain permission to conduct the work, and the Applicant has provided reasonable evidence of its good faith efforts, within a reasonable time period in advance of the final use and occupancy permit, it will be deemed that the Applicant has otherwise met this Condition.

6. Bicycle Parking

The Applicant must provide 11 long-term bicycle parking spaces in a secured, well-lit area adjacent to the parking area. The specific location of the bicycle parking area must be identified on the Certified Site Plan.

Site Plan

7. Building Height

The building is limited to a maximum height of 50 feet as measured from the building height measurement point illustrated on the Certified Site Plan.

8. Architecture

- a. The Applicant must set the building back along the north façade a minimum of 20 feet, as measured from the base of the confronting off-Site retaining wall for the McDonalds restaurant.
- b. The Applicant must locate the building outside of the stream valley buffer identified on the approved NRI/FSD, as illustrated on the Certified Site Plan.
- c. The exterior architectural character, proportion, materials, and articulation must be substantially similar to the schematic elevations shown on the architectural drawings included in the Certified Site Plan, as determined by Staff.
- d. Prior to Certified Site Plan, the Applicant must provide for Staff review and approval additional enhancements to the west building façade,

including the transition to the north façade.

9. Landscaping

- a. Prior to issuance of the final Use and Occupancy Certificate, all on-Site amenities shown on the Certified Site Plan including, but not limited to, streetlights, sidewalks/pedestrian pathways, hardscape, benches, trash receptacles, bicycle facilities, and recreation amenities must be installed.
- b. The Applicant must install landscaping no later than the next growing season after completion of Site work.
- c. The Applicant must revise and expand the plant list to specify more native canopy trees.
- d. The Applicant must provide more shade-tolerant species for the area between the existing retaining wall and north side of the proposed building.
- e. The Applicant must provide a rill or other similar aesthetically pleasing surface drainage method to convey the water flows which regularly emanate from the existing retaining wall near the north side of the Property, as illustrated on the Certified Site Plan. If, within a reasonable time period in advance of the final use and occupancy permit, as determined by Staff, the Applicant is unable, after good faith efforts, to obtain permission to conduct the work or record the necessary easements from the owner of the off-Site portion of the path, the Applicant must provide only the on-Site portion.

10. Lighting

- a. Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting for this connection and for the rest of the Site conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded) for a development of this type. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded).
- b. All onsite down-lights must have full cut-off fixtures.
- c. Deflectors will be installed on all fixtures to prevent excess illumination and glare.

11. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Permit, exclusive of permits for demolition, sheeting and shoring, and associated sediment control, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the

Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59.7.3.4.K.4 of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b) The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-Site lighting, indoor and outdoor recreational facilities, Site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks, bikeways, storm drainage facilities, street trees and street lights, and Phase 1 and Phase 2 of the Outlet Road shared-use path. The surety must be posted before issuance of any building permit of development and will be tied to the development program.
- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a Site Plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.
- d) The bond or surety shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific Certified Site Plan sheets depicting the limits of development.

12. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Add a note stating that "Minor modifications to the limits of disturbance shown on the Certified Site Plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- b. Ensure consistency of all details and layout between Site and Landscape Plans.
- c. Applicant must revise Site Plan such that the western end of the Outlet Road corridor curves southwards, so that the north edge of the Outlet Road pathway corridor lines up with the existing row of bollards on Parcel P240.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Westbard Self-Storage, Site Plan No. 820170110, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report,

which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The development satisfies any previous approval that applies to the site.*

As conditioned, the Site Plan conforms to the concurrent Preliminary Plan 120170280.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

There are no binding elements of an associated development plan or schematic development plan in effect on October 29, 2014.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

This section is not applicable as the Subject Property's zoning classification on October 29, 2014, was not the result of a Local Map Amendment.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

- a. Development Standards

The Subject Property includes approximately 0.98 acres zoned IM-2.5 H-50. The Application includes a maximum total density of 195,527 square feet of self-storage uses. This includes 107,030 square feet of Gross Floor Area (GFA) derived from the tract area, and 88,497 square feet of "cellar" area, defined in Zoning Ordinance Section 59.1.4.2 as "the portion of a building below the first floor joists of which at least half of the clear ceiling height is below the average elevation of the finished grade along the perimeter of the building."

The Planning Board received testimony questioning the appropriateness of the Application's inclusion of a substantial amount of "cellar" area that is not part of the project's GFA. However, as described in the Staff Report and discussed at the public hearing, a "cellar" is expressly excluded from the definition of GFA under Zoning Ordinance Section 59.1.4.2. During building permit review, the Montgomery County Department of Permitting Services (MCDPS) will evaluate the Applicant's construction documents and ensure

that the Applicant is permitted to build only the GFA and cellar area that meets the Zoning Ordinance definition up to the maximum approved by the Planning Board.

The Application satisfies the applicable development standards as shown in the following data table:

Data Table

Section 59.4	Development Standard	Permitted/ Required	Approved and Binding on the Applicant
	Tract Area (Square Feet)	n/a	42,812 (0.98 acres)
	ROW Dedication (min.)	n/a	579
	Site Area (max.)	n/a	42,233 (0.969 acres)
4.8.2.A.1	Maximum Density (FAR/SF) IM-2.5 H-50	2.5/107,030	2.5/107,030
	Cellar area exempt from Gross Floor Area per 59.1.4.2.G		88,497
	Total		195,527
4.8.2.A.1	Building Height (feet) IM-2.5 H-50	50 feet	50 feet
4.8.3.A.1	Amenity Open Space (minimum) Public Open Space (% of Site/sf.)	10/4,223	40.2/16,974
4.8.3.A.3	Minimum setbacks		
	Front	10 feet	33 feet
	Rear	10 feet	19 feet
	North Side	10 feet	10 feet
	South Side	0 feet	11.5 feet
6.2.4.B	Parking spaces, minimum		
	Vehicular	12	18
	Bicycle	11	11

b. General Requirements

i. *Site Access*

Vehicular ingress/egress to the Site will be from the County-owned service road and will use an access aisle shared with the Property to the south, utilizing a shared-access easement with the Property. The entry will be approximately 115 feet from River Road and will provide satisfactory general vehicular, pedestrian, and bicyclist access.

ii. *Parking, Queuing, and Loading*

The Application provides satisfactory parking, queuing, and loading. The Site Plan will provide parking and loading bays off this access aisle, and the Applicant is exceeding the number of parking spaces required by the Zoning Ordinance, as shown in the data table above. The main pedestrian entrances to the development will be at the eastern corner of the Property where the main entrance to the building is located.

iii. *Open Space and Recreation*

The Applicant is required to provide 10% open space on-Site. The Application proposes 39.65% (16,974 square feet) on-Site public open space in the form of a pedestrian path between the County-owned service road and the future Willett Branch Greenway. As described in the Staff Report and conditioned in this Resolution and in the concurrently-adopted Resolution approving Preliminary Plan 120170280, this path will provide a safe and attractive public access route between the Greenway and River Road and the Capital Crescent Trail.

iv. *General Landscaping and Outdoor Lighting*

Landscaping and lighting, as well as other Site amenities, will be provided to ensure that these facilities will be safe, adequate, and efficient for residents and visitors to the Property. Asphalt paving (pedestrian path), planting, and outdoor lighting will be installed and will be shown on the Certified Site Plan.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A stormwater management concept plan was approved by MCDPS on November 9, 2017. The plan will meet stormwater management

requirements through a green roof and micro-bioretenion planter boxes. Full treatment is provided, and no waivers are associated with the Site Plan.

Although several citizens expressed a desire for changes to the stormwater management concept plan to allow for greater groundwater infiltration into Willett Branch, an employee of the MCDPS testified authoritatively at the hearing that, among other factors considered by MCDPS in its review of the stormwater management concept plan, groundwater infiltration would be unlikely on the Subject Property given its highly compacted soil conditions. Because MCDPS is the agency with both the technical expertise and the legal mandate to review and approve the details of stormwater management concept plans, the Board routinely defers to MCDPS on these issues. Further, Condition #8 of the stormwater management concept plan requires revision of the plans to provide some treatment of the paving surfaces, which will further enhance the stormwater management for the Project.

b. Chapter 22A, Forest Conservation

A. Forest Conservation

As conditioned, the Final Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Site contains substantial areas of environmentally-sensitive resources and high-priority settings associated with stream valley buffers. This Application will result in an enhancement of these settings as the building and associated infrastructure are designed to remain outside of the existing stream valley buffer. Additionally, the impervious areas on Lot 1 will be reduced and a considerable green roof area and stormwater management features will be provided as part of the new building.

The afforestation/reforestation requirements triggered by the Application are approximately 0.20 acres. The afforestation/reforestation requirements will be met offsite by a fee-in-lieu payment.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a

variance under Section 22A-12(b)(3) ("Variance"). Otherwise, such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to a Protected Tree as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. An existing gravel parking pad overlaps the CRZ of the tree to be impacted. Any modification or careful demolition of the parking area, even for stream valley buffer enhancement purposes, would cause an impact to the Protected Tree and trigger Variance requirements.

The Board makes the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The trail connection that results in impacts to the subject tree is specifically recommended in the Sector Plan. Furthermore, the plans and variance request propose only minor impacts to the subject tree rather than removal. Applicants are typically expected to comply with Sector Plan recommendations, and a variance request for a minor impact such as the one proposed in this Application would be granted to any Applicant in a similar situation.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested Variance is based on implementation of a specific trail connection recommendation the Sector Plan. The Variance can be granted under this condition if, as in this case, the impacts are avoided or minimized and any necessary mitigation is provided.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested Variance is a result of the Sector Plan recommendations for the Subject Property and not because of land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Site currently has a high level of impervious surfaces and very little or no stormwater management. The overall plans will provide considerable stormwater management features and green space enhancements where none exist today. MCDPS Staff approved the stormwater management concept for the Application on November 9, 2017. The stormwater management concept proposes to meet required stormwater management goals with the use of green roofs and micro-bio retention planter boxes. The full treatment is provided and no stormwater management waivers are associated with the project. Furthermore, demolishing the dilapidated pavement and compacted gravel pad currently existing within the stream valley buffer and replacing with greenspace will significantly enhance the stream valley corridor, further improving the associated water quality. Therefore, the Application, even with the Variance, will enhance water quality and not violate State water quality standards or cause measurable degradation in water quality.

No mitigation is required for Protected Trees impacted but retained.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

The Project provides adequate, safe, and efficient parking and circulation patterns, building massing, open spaces and Site amenities. As described in finding four above, there will be one vehicular entrance into the Project located at the eastern end of the Property at the County-owned service road, and the Site Plan provides more than the required number of parking spaces.

The Project provides 39.95% of (16,974 square feet) on-Site public open space along at the pedestrian/bike trail between the county owned service road and the future Willett Branch Greenway. The Application will upgrade the physical environment and pedestrian access to and from the future Willett Branch Greenway with a pedestrian path along the north Property line shared with the McDonalds restaurant to the north. As conditioned, Preliminary Plan 12017028 requires the Applicant to make good faith efforts to work with its neighbor to provide the full, Sector Plan-recommended width of the Outlet Road shared-use path. In the event the Applicant is unable to secure necessary approvals from its neighbor to do so, the Applicant will still make improvements and provide the necessary easement to allow and encourage public access through this portion of the Subject Property. In either case, the shared-use path will present a safe and

inviting route for the public, which, as required by this Resolution, will include adequate lighting.

- 7. The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Property is within the boundaries of the 2016 Westbard Sector Plan. The general goals of the Sector Plan are to provide land use, zoning, and urban design recommendations that will incentivize property owners to make investments and improve the quality of life in Westbard. Among these goals is the retention of light industrial uses, the naturalization of the Willett Branch stream into a major amenity that will become a unifying feature of the community, and a shared use path between Westbard Avenue on the west and River Road and the Capital Crescent Trail on the east.

The Site Plan meets these goals. The Application's self-storage use is permitted in the zone and the development will replace other industrial uses on the Subject Property. The self-storage building will remain outside the stream valley buffer, and its size is consistent with the maximum density allowed by the I-M zone, which was reconfirmed through the Sectional Map Amendment for the Westbard Sector Plan. To ensure that the rear of the building is consistent with the reactivation of the Willett Branch, this approval is conditioned on the Applicant providing for Staff review and approval additional enhancements to the west building façade, including the transition to the north façade.

The Site Plan will further contribute to the naturalization of the Willett Branch and realization of the Greenway Park by accommodating the recommended Outlet Road shared-use path connecting the Capital Crescent Trail to the Greenway along the northern edge of the Site. The shared-use path will be designed with appropriate lighting and other features to encourage public access as envisioned by the Sector Plan.

The Sector Plan also has a several recommendations regarding the use of green roofs, meeting stormwater management onsite, and avoiding the use of stormwater management waivers. The Project readily meets the Sector Plan recommendation on green roofs/and stormwater management volume treatment, as discussed in finding five.

8. *The development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.*

As discussed in the Staff Report and the Resolution approving Preliminary Plan No. 120170280, the development envisioned by the Site Plan will be served by adequate public facilities.

9. *The development is compatible with existing and approved or pending adjacent development.*

The Site Plan is compatible with existing and proposed adjacent development. The Property is located within the South River District of the Sector Plan and redevelopment has not occurred on this block in many years. The industrial use and the conveyance of land to the Maryland-National Capital Park and Planning Commission for the future Willett Branch Greenway is in conformance with the goals of Sector Plan. The Site Plan will also provide part of a recommended safe and inviting pedestrian route across Willett Branch for people who wish to walk from Westbard Avenue to River Road.

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that this Site Plan shall remain valid as provided in Montgomery County Code § 59-7.3.4.H; and

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JAN 12 2018 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of

this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Cichy, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, January 11, 2018, in Silver Spring, Maryland.





Casey Anderson, Chair
Montgomery County Planning Board


















































Email

Re: Open Letter to Council...

Email

From  Marsha Coleman-Adebayo

To  cmrigaux@gmail.com;  Councilmember Friedson; 
Councilmember.Friedson@public.govdelivery.com

Cc  <MCP-Chair MCP-Chair>;  Al Carr;  Anis.ahmed@montgomerycountymd.gov; 
Anne.Kaiser@house.state.md.us;  ariana.kelly@house.state.md.us;  Austin, Lisa; 
ben.kramer@senate.state.md.us;  benfkramer@aol.com;  bonnie.cullison@house.state.md.us; 
brian.feldman@senate.state.md.us;  charlotte.crutchfield@house.state.md.us; 
cheryl.kagan@senate.state.md.us;  Claudia.Canales@montgomerycountymd.gov; 
Councilmember Friedson;  Councilmember Glass;  Councilmember Hucker; 
Councilmember Navarro;  Councilmember Rice; 
Councilmember.Albornoz@montgomerycountymd.gov; 
Councilmember.Riemer@montgomerycountymd.gov;  Craig.Zucker@senate.state.md.us;
 Dale Tibbitts;  david.fraser.hidalgo@house.state.md.us;  david.moon@house.state.md.us;
 Debbie.Spielberg@montgomerycountymd.gov;  debbie_yamada@cardin.senate.gov; 
Delegate Al Carr (office);  Delegate Jared Solomon;  emily.shetty@house.state.md.us;
 eric.luedtke@house.state.md.us;  gabriel.acevero@house.state.md.us; 
Jamie.Raskin@mail.house.gov;  Jawando's Office, Councilmember; 
Jheanelle.Wilkins@house.state.md.us;  Jim Gilchrist; 
Jim.Gilchrist@house.state.md.us;  jimgil@comcast.net;  Joseph.Eyong@mail.house.gov;
 julie.palakovichcarr@house.state.md.us;  Karen.Hendricks@vanhollen.senate.gov;  Kaseman,
Mansfield;  Kathleen.Connor2@mail.house.gov;  Kathleen.Dumais@house.state.md.us; 
Katz's Office, Councilmember;  kirill.reznik@house.state.md.us;  Korman, Marc
Delegate;  kumar.barve@house.state.md.us;  lesley.lopez@house.state.md.us; 
lily.qi@house.state.md.us;  lorig.charkoudian@house.state.md.us;  lovesara.love@house.state.md.us;
 Marc.Elrich@montgomerycountymd.gov;  marc.korman@house.state.md;  MCP-
Chair #;  MCP-Chair@mncppc-mc.org;  Mike Riley;  Mike Riley; 
Nancy.King@senate.state.md.us;  ocemail@montgomerycounty.gov; 
Pam.Queen@house.state.md.us;  Sabria.Still@montgomerycountymd.gov; 
sara.love@house.state.md.us;  scheduling@vanhollen.senate.gov;  Senator Jeff
Waldstreicher;  Senator Roger Manno;  Smith, Will Senator;  Stiebel, Sam;
 susan.lee@senate.state.md.us;  Susanne Paul;  Susanne Paul;  Tom Hucker; 
vaughn.stewart@house.state.md.us

Subject Re: Open Letter to Councilman Friedson - This Friday: Virtual Friday with Friedson -

Date Sent

Date Received

6/23/2020 12:40 PM

An Open Letter to Councilman Friedson

From:
Dr. Marsha Coleman-Adebayo

Bethesda African Cemetery Coalition
nofearcoalition@aol.com
(240) 731-9577

Laurel Hoa
Showing Up for Racial Justice, Montgomery County (SURJ)

Dear Mr. Friedson,

Thank you for your communication sent yesterday supporting Black Lives Matter.

Of the "many" demonstrations, marches, and vigils you have attended, none has been to stop the desecration of Moses African Cemetery on River Road in Bethesda.

Despite over three years of letter writing, protesting, demonstrating, and pleading by Macedonia Baptist Church and the Bethesda African Cemetery Coalition, the Bethesda Self-Storage Company just last week moved in earthmoving equipment and began digging up the land abutting--or possibly on--Moses Cemetery. Our pleas have fallen on deaf ears, whether it be the ears of the county council, the county executive, the state delegates, the Housing Opportunities commissioners, and the Parks and Planning commissioners.

Black lives matter. So do Black deaths.

Montgomery County cannot continue to turn a blind eye to the wanton destruction happening on River Road yet lift up their eyes to proclaim their commitment to ending racism. Moses African Cemetery is a crime scene. The biomass of Africans, particularly African girls are being plundered as of this writing.

Racism is a public health emergency: We do not need a county resolution to tell us that. What we need from the county is what only the county government can do: Stop all desecration near and around Moses African Cemetery until the land can be returned to its proper owner: Macedonia Baptist Church.

Call upon the county executive to finish what he started: He held two meetings with Macedonia Baptist Church and other critical parties and was moving toward a justifiable resolution before the pandemic hit.

The negotiations were paused but the Bethesda Self Storage Company was permitted to begin construction on that sacred burial ground. **We are asking you to call upon Marc Elrich to immediately resume negotiations between Macedonia Baptist Church, HOC, Parks, and the storage company.**

This racist desecration must stop. Moses Cemetery must be returned to its rightful owner, Macedonia Baptist Church.

We will never stop fighting the institutional racism that devalues Black lives in life and in death. Montgomery County must prove that Black Lives Matter through actions, not mere words.

Signed

Marsha Coleman-Adebayo

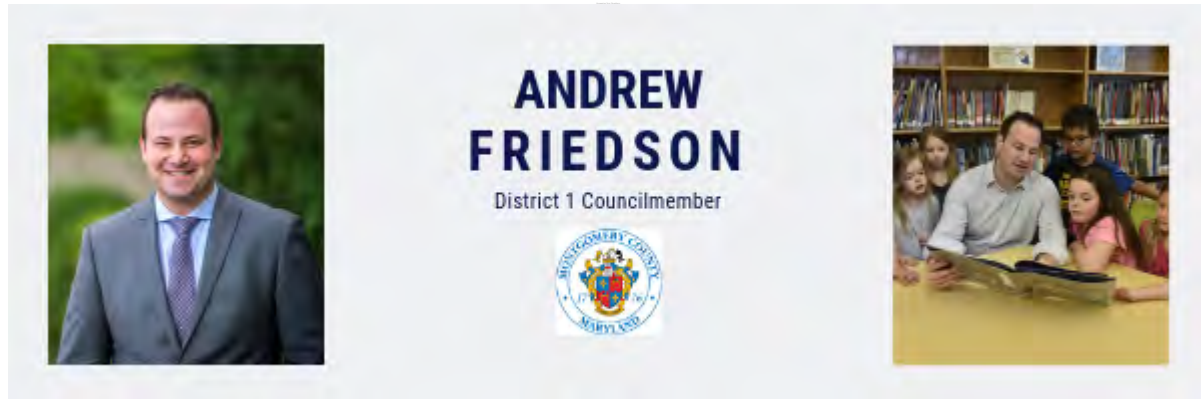
Laurel Hoa

and The Bethesda African Cemetery Coalition

Christopher Rigaux
Keven Berends
Rev. Segun Adebayo
Lucy Perez
Adrienne Pine
Gail Rebhan

Ralph Wooden
Tim Willard
Harvey Matthews

Chris Rigaux
(240) 441-9288



Join Us This Friday



This Friday at 1:00PM, please click this image to join our conversation on Facebook Live.

If you don't have access to Facebook, you can submit your questions or thoughts beforehand by sending them to our email address: councilmember.friedson@montgomerycountymd.gov or by reaching out to us at that email address any time.

Office of Councilmember Andrew Friedson
100 Maryland Avenue
Rockville, MD 20850
(240) 777-7828
Councilmember.Friedson@montgomerycountymd.gov
<https://www.montgomerycountymd.gov/Friedson/>



SUBSCRIBER SERVICES:

If you no longer want to receive this newsletter, you can [update or cancel your subscription here](#).

This email was sent to you using GovDelivery, on behalf of: Montgomery County, Maryland Government. As a subscriber, you agree that we may contact you by email and use the information you submit as described in the Montgomery County Privacy Policy.

Please do not reply to this email as it is part of the Council's newsletter software and we will not be able to retrieve your message. We want to hear from you so please email us at Councilmember.Friedson@montgomerycountymd.gov.

This email was sent to nofearcoalition@aol.com using GovDelivery Communications Cloud on behalf of: Montgomery County Maryland · Monroe Street · 13th Floor Rockville · Rockville, MD 20850 · (240) 777-2900



Attachments

File Name	File Size (Bytes)	
There are no Attachments to show in this view. To get started, create one or more Attachments.		
0 - 0 of 0 (0 selected)		Page 1



Open Letter to Montgomery County Executive Marc Elrich The Destruction of Moses African Cemetery: Building a Monument to White Supremacy

Monday, June 29, 2020

Mr. Elrich,

Be advised that while you are graciously pushing off meeting with the Bethesda African Cemetery Coalition (BACC) until mid-July, at this very moment there is heavy equipment that you authorized destroying irretrievable remains of our ancestors on the sacred ground in Moses African Cemetery at your Bethesda Self Storage Genocide site. Heavy equipment is crushing the bones, sacred remains, and funerary objects of our ancestors who were murdered, raped, worked to death on River Road. In particular, the "little girls" who were forced into sex/breeding slavery to produce Africans for the deep south. They are not resting in peace but rather they are resting in power!

We hold you responsible for this act of genocide.

While you have been dismissive of the fact that the current portion of Moses Cemetery under attack is even part of the cemetery, esteemed archeologist Michael Blakey, Scientific Director of the renowned New York Burial Ground Project has reviewed photographs of material being destroyed at your Bethesda Self Storage Genocide site and will be advising you in writing that there is credible reason to believe that human remains and funerary artifacts are being destroyed. Archeologists and Anthropologists are now calling Moses African Cemetery an international site of genocide, demanding a work stoppage to protect scientific knowledge that will inform the study of African history and medical investigations for generations.

Further, we take extreme offense that while you managed to contact the white developer and white owner of your Bethesda Self Storage Genocide enterprise, as you wrote in your recent email to the Coalition, you did not bother yourself with contacting the descendant community. While BACC, indeed all of Maryland was required to observe the pandemic shutdown, you took advantage of that mandated inactivity to permit the heavy equipment assault on our ancestors in earnest.

We are not naive enough to believe that you were unaware of the urgency of this situation to the descendant community that we have already repeatedly contacted your office about in the immediate past weeks.

You know exactly what you are doing. You know that Moses' genocide is a monument to white supremacy. You know that with your inaction in stopping this abomination you are dogwhistling white supremacists that they need not worry about Black people getting too uppity. The annihilation of Moses African Cemetery is the equivalent of the KKK burning a cross inside our ancestors' final resting place or the humiliation felt by the black race in the incarceration of Nelson Mandela by the apartheid regime. You could not show more indifference to whatever landfill our ancestors get dumped in—indeed, the escalation of the desecration is ongoing with your blessings.

We understand that your inaction is calling us the n-word!

You need to stop all of your other important pressing affairs long enough to consider the long-term, genocide reinforcing impact of your cowardice in this matter.

We will never tolerate the continuation of the racist, white supremacist heritage you are intent on continuing in the long ugly heritage of every man who has held your office since the inception of Montgomery County in 1776. It was incumbent upon everyday citizens to place their bodies in front of concrete trucks, to prevent them from delivering their "final solution" to Moses last week. The developers called the police on peaceful protestors who were exercising their first amendment rights: we were accosted by Montgomery County police, US Secret Service and the US Park police. Our ancestors are once again on the auction block with gun toting white "slave patrollers" daring anyone to challenge their authority.

A Park Police officer harassed and literally spit in the face of a young Black man during our demonstration - using profanity and shouting at him without wearing a face mask during a deadly pandemic. It is our sincere hope that your dereliction of duty does not result in further Black deaths while you sip coffee in your air conditioned office.

Very Truly Yours,


Marsha Coleman-Adebayo
President, BACC




www.bethesdaafricancemetery.org

Email

FW: Open Letter to Marc El...

Email

From  mcp-crm-tracker@mncppc-mc.org

To  <[MCP-Chair MCP-Chair](#)>;  [MCP-Chair #](#);  MCP-Chair@mncppc-mc.org

Cc

Subject FW: Open Letter to Marc Elrich on Moses Genocide

Date Sent **Date Received** 6/29/2020 2:26 PM

From: nofearcoali on@aol.com <nofearcoali on@aol.com>
Sent: Monday, June 29, 2020 1:57 PM
To: nofearcoali on@aol.com
Subject: Fwd: Open Letter to Marc Elrich on Moses Genocide
Importance: High

Open Letter to Montgomery County Executive Marc Elrich The Destruction of Moses African Cemetery: Building a Monument to White Supremacy

Monday, June 29, 2020

Mr. Elrich,

Be advised that while you are graciously pushing off meeting with the Bethesda African Cemetery Coalition (BACC) until mid-July, at this very moment there is heavy equipment that you authorized destroying irretrievable remains of our ancestors on the sacred ground in Moses African Cemetery at your Bethesda Self Storage Genocide site. Heavy equipment is crushing the bones, sacred remains, and funerary objects of our ancestors who were murdered, raped, worked to death on River Road. In particular, the "little girls" who were forced into sex/breeding slavery to produce Africans for the deep south. They are not resting in peace but rather they are resting in power!

We hold you responsible for this act of genocide.

While you have been dismissive of the fact that the current portion of Moses Cemetery under attack is even part of the cemetery, esteemed archeologist Michael Blakey, Scientific Director of the renowned New York Burial Ground Project has reviewed photographs of material being destroyed at your Bethesda Self Storage Genocide site and will be advising you in writing that there is credible reason to believe that human remains

and funerary artifacts are being destroyed. Archeologists and Anthropologists are now calling Moses African Cemetery an international site of genocide, demanding a work stoppage to protect scientific knowledge that will inform the study of African history and medical investigations for generations.

Further, we take extreme offense that while you managed to contact the white developer and white owner of your Bethesda Self Storage Genocide enterprise, as you wrote in your recent email to the Coalition, you did not bother yourself with contacting the descendant community. While BACC, indeed all of Maryland was required to observe the pandemic shutdown, you took advantage of that mandated inactivity to permit the heavy equipment assault on our ancestors in earnest.

We are not naive enough to believe that you were unaware of the urgency of this situation to the descendant community that we have already repeatedly contacted your office about in the immediate past weeks.

You know exactly what you are doing.

You know that Moses' genocide is a monument to white supremacy. You know that with your inaction in stopping this abomination you are dogwhistling white supremacists that they need not worry about Black people getting too uppity.

The annihilation of Moses African Cemetery is the equivalent of the KKK burning a cross inside our ancestors' final resting place or the humiliation felt by the black race in the incarceration of Nelson Mandela by the apartheid regime.

You could not show more indifference to whatever landfill our ancestors get dumped in—indeed, the escalation of the desecration is ongoing with your blessings.

We understand that your inaction is calling us the n-word!

You need to stop all of your other important pressing affairs long enough to consider the long-term, genocide reinforcing impact of your cowardice in this matter. We will never tolerate the continuation of the racist, white supremacist heritage you are intent on continuing in the long ugly heritage of every man who has held your office since the inception of Montgomery County in 1776.

It was incumbent upon everyday citizens to place their bodies in front of concrete trucks, to prevent them from delivering their "final solution" to Moses last week.

The developers called the police on peaceful protestors who were exercising their first amendment rights: we were accosted by Montgomery County police, US Secret Service and the US Park police. Our ancestors are once again on the auction block with gun toting white "slave patrollers" daring anyone to challenge their authority.

A Park Police officer harassed and literally spit in the face of a young Black man during our demonstration - using profanity and shouting at him without wearing a face mask during a deadly pandemic.


It is our sincere hope that your dereliction of duty does not result in further Black deaths while you sip coffee in your air conditioned office.

Justice!

Marsha Coleman-Adebayo,
on behalf of BACC and allies

(see attachment)


Attachments




<u>File Name</u>	<u>File Size (Bytes)</u>	
Open Genocide Letter to County Executive M...	2,366,087	
1 - 1 of 1 (0 selected)		Page 1

Email

Current Desecration of Mo...

Email

From  Naomi Cohen

To  <MCP-Chair MCP-Chair>;  MCP-Chair #;  MCP-Chair@mncppc-mc.org

Cc

Subject Current Desecration of Moses Cemetery

Date Sent **Date Received** 6/29/2020 3:17 PM

Good Afternoon,

My name is Naomi and I am a resident of Montgomery County and have been for almost my entire life. I am ashamed to say that it's only been in the past month that I learned of the atrocities committed in our county against Black folks, as recent as May of this year, going all the way back to the time of slavery. I hope you are familiar with the names Finan Berhe, Robert White, and Emmanuel Otukuga - three Black men gunned down by police officers in our county. It's long past time to be doing better and doing right by the families of those three Black men and the countless other instances of racism and actions rooted in white supremacy that have occurred in our county.

I am writing to you today about the current desecration of the Macedonia Baptists's Church Moses African Cemetery in Bethesda. As you might know, a storage company has begun construction on top of this historical burial ground that houses the bodies of enslaved Africans and their descendants. I highly doubt this would be happening if the bodies buried were white.

As civilians, we can only do so much to try to stop the construction. This is where we need you, a member of our current governing authority, to invoke your power to stop any further desecration of this cemetery so it can be publicly proclaimed as sacred ground. The enslaved Africans and their descendants are beyond owed our respect and honor.

I am of course hoping that you'll take this matter seriously and discuss with other members of our governing bodies so we can put a stop to this blatant erasure of Black history. Thank you for your time.

**Best,
Naomi**

Attachments

File Name	File Size (Bytes)





There are no Attachments to show in this view. To get started, create one or more Attachments.


0 - 0 of 0 (0 selected)






Page 1



Email

Westbard Sector Plan Proj...

Email

From  Cruz, Loreli A

To  <MCP-Chair MCP-Chair>;  debbie.spielberg@montgomerycountymd.gov;  MCP-Chair #;  MCP-Chair@mncppc-mc.org;  Robert Kronenberg;  Robert.Kronenberg@montgomeryplanning.org

Cc  jennifer.semko@bakermckenzie.com;  joshua.odintz@bakermckenzie.com

Subject Westbard Sector Plan Project and Moses Cemetery

Date Sent **Date Received** 7/1/2020 2:43 PM

Ladies & Gentlemen:

Attached please find a letter which we submit with respect to the Westbard Sector Plan Project and Moses Cemetery, on behalf of our client, the Macedonia Baptist Church.

Respectfully submitted,

Loreli A. Cruz, on behalf of Joshua D. Odintz
Pro Bono Counsel to the Macedonia Baptist Church

Loreli A Cruz
Executive Assistant to Joshua D. Odintz
Tax Department
Baker & McKenzie LLP
815 Connecticut Avenue, N.W.
Washington, DC 20006-4078
United States
Tel: +1 202 452 7000
Fax: +1 202 452 7074
Direct Fax: +1 202 416 6939
lorelia.cruz@bakermckenzie.com



bakermckenzie.com | [Facebook](#) | [LinkedIn](#) | [Twitter](#)

Litéra Secure File Transfer Encrypted Outlook Attachment(s):

Letter to the Hon. Marc Elrich, et al., re Westbard Sector Plan Project and Moses Cemetery, dated July 1, 2020.pdf

91731 (kB)

File(s) will be removed at: 7/15/2020 6:42 PM GMT

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message. Please visit www.bakermckenzie.com/disclaimers for other important information concerning this message.

Attachments

File Name	File Size (Bytes)	↻
image001.png	4,828	
1 - 1 of 1 (0 selected)		Page 1

Asia Pacific

Bangkok
Beijing
Brisbane
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta
Kuala Lumpur*
Manila*
Melbourne
Seoul
Shanghai
Singapore
Sydney
Taipei
Tokyo
Yangon

Europe, Middle East

& Africa
Abu Dhabi
Almaty
Amsterdam
Antwerp
Bahrain
Baku
Barcelona
Berlin
Brussels
Budapest
Cairo
Casablanca
Doha
Dubai
Dusseldorf
Frankfurt/Main
Geneva
Istanbul
Jeddah*
Johannesburg
Kyiv
London
Luxembourg
Madrid
Milan
Moscow
Munich
Paris
Prague
Riyadh*
Rome
St. Petersburg
Stockholm
Vienna
Warsaw
Zurich

The Americas

Bogota
Brasilia**
Buenos Aires
Caracas
Chicago
Dallas
Guadalajara
Houston
Juarez
Lima
Los Angeles
Mexico City
Miami
Monterrey
New York
Palo Alto
Porto Alegre**
Rio de Janeiro**
San Francisco
Santiago
Sao Paulo**
Tijuana
Toronto
Valencia
Washington, DC

* Associated Firm

** In cooperation with
Trench, Rossi e Watanabe
Advogados

Via Email

July 1, 2020

The Honorable Marc Elrich
Montgomery County Executive
Executive Office Building
101 Monroe Street, 2nd Floor
Rockville, MD 20850
debbie.spielberg@montgomerycountymd.gov

Chair and Members, Montgomery County Planning Board
(Mr. Casey Anderson, Ms. Natali Fani-Gonzalez, Mr. Gerald R. Cichy, Ms. Tina Patterson,
and Mr. Partap Verma)
Planning Board M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910
MCP-Chair@mncppc-mc.org

Mr. Robert A. Kronenberg
Deputy Director, Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, MD 20910
robert.kronenberg@montgomeryplanning.org

Re: Westbard Sector Plan Project and Moses Cemetery

Ladies and Gentlemen,

Our Firm is *pro bono* counsel to the Macedonia Baptist Church, located at 5119 River Road in Bethesda, Maryland (“Macedonia” or the “Church”). As you are well aware, the Church has for many years voiced its extreme concern regarding Montgomery County’s treatment of certain parcels of land in Bethesda containing and adjacent to the historic River Road Moses Cemetery, a historically significant burial ground of enslaved Africans. Most recently, the ongoing grading, digging and construction on Parcels 191 and 242 by Bethesda Self Storage Partners further risks the desecration of these burial grounds. We are writing urgently to share with you photographs taken of the construction site within the last week, and the enclosed letter from a preeminent archaeologist and scholar specializing in African burial grounds, who concludes that light-colored, elongated fragments in the photographs and other indicators suggest the potential presence of human remains, such that activity on the site must be stopped immediately for closer examination.

Specifically, the enclosed photographs from the construction site show that the intrusive disturbance of human remains may have already occurred. See Enclosed photographs and Letter dated June 27, 2020 from Dr. Michael L. Blakey, National Endowment for the

Humanities Professor of Anthropology, Africana Studies and American Studies and Director, Institute for Historical Biology, the College of William & Mary. This development is unfortunate, but not unexpected, given the parcels' close proximity to known burial grounds and the County's prior rejection of a more comprehensive proposal by Dr. Blakey and others that the development conditions require comprehensive field work and real-time reporting of archaeological findings.

Instead, construction at the site has proceeded despite strenuous public protest. To date, members of the public (including those who represent the descendant community and other stakeholders) who have called for the physical examination of the property and careful archaeological supervision of the development process have been repeatedly prevented from obtaining sufficient access to evaluate the potential destruction of the burials. In addition, the Church, members of the public, and this Firm have received conflicting information about what archaeological study and oversight, if any, has occurred at the site during the construction.

Although the development conditions placed on the project require Bethesda Self Storage Partners to hire an archaeologist at the site, it is unclear whether this condition has been met, and we have received contradictory information from county officials in this regard. Specifically, an October 9, 2019 letter from the Montgomery County Planning Department requires Bethesda Self Storage Partners to hire a Professional Archaeologist who is qualified to recognize human remains and funerary objects. While the letter does not specify when the archaeologist should be hired, the archaeologist is tasked with "monitor[ing] the drilling work associated with the tiebacks in the northwest corner of the foundation which is closest to the cemetery." To be clear, this limited archaeological oversight is far less than the level of supervision Dr. Blakeley, the Church and members of the community believe is appropriate—but it is unclear whether even this minimal condition is being met. In a phone conversation between Robert Kronenberg and Hilary Polak of Baker McKenzie on June 24, 2020, Mr. Kronenberg stated that the storage company had not hired an archaeologist yet because the company had not begun the referenced drilling work associated with the tiebacks. However, an email sent on behalf of Mr. Elrich on June 26, 2020 states: "The property owner has hired a firm to do archaeological monitoring at the site . . . [t]hey have submitted two reports about their monitoring." If such reports exist, neither we nor the Church have ever seen them.

In addition, the Planning Department has taken actions regarding the burial ground that are inconsistent with past understandings established with the Church. For instance, after reaching an understanding with Bethesda Self Storage Partners that another adjacent lot, Parcel 177, would be conveyed to the Church, the Church learned via an email from Timothy Dugan on March 27, 2019, that Parcel 177 was, instead, conveyed by to the Maryland National Capital Park and Planning Commission via a late-night transaction, without the opportunity for public comment or input, or any clear indication of the Commission's intended next steps. As you know, the Church and the Montgomery County Planning Department had been in ongoing talks about Parcels 175 and 177, which all agree represent the site of Moses African Cemetery.

Because Parcels 175 and 177 border the property that Bethesda Self Storage is developing, the Church and community have a legitimate concern that the historic cemetery boundaries overlap with the property being developed, particularly given the considerable earthmoving during the

period of Bethesda's development at mid-century, as noted in the Preliminary Report on the Historical and Cemetery Assessment for Parcel 175 of the Westbard Sector Plan Project Bethesda, Montgomery County, Maryland, by the Ottery Group, dated July 21, 2017. Yet, to date, and notwithstanding Dr. Blakey's and the community's urging, no meaningful effort has been made to evaluate the presence of human remains and establish the outer borders of the historic cemetery.

As a result of these and other actions, we have significant concerns about the arbitrary and capricious nature of the County's process in reviewing, approving, and overseeing the Westbard Sector Plan Project and associated construction. The continued construction by the storage company without serious engagement of the public and without apparent engagement from qualified archaeologist and/or anthropologists is causing irreparable harm to the community and must cease.

We request an immediate halt to the construction by Bethesda Self Storage Partners and a firm commitment by county officials to transparently engage with the community to establish a trustworthy process to evaluate the potential presence of human remains on the site (not simply one corner of the site), pursuant to the guidelines in the attached letter from Dr. Blakey. In addition, we seek clarification as to whether an archaeologist has, in fact, been hired by Bethesda Self Storage Partners, as well as a complete copy of the two archaeological reports referred to in Mr. Elrich's email. Finally, we request a commitment from you to schedule a meeting between any archaeologist hired by Bethesda Self Storage Partners and the experts that represent the Church to develop a mutually-agreed-upon path forward to examine the site.

We look forward to your response within 48 hours from the date of this letter. If we do not receive your response within 48 hours, the Church will have no choice but to consider all available legal options.

Best regards,



Joshua D. Odintz
+1 202 835 6164
joshua.odintz@bakermckenzie.com

and



Jennifer Ancona Semko
+1 202 835 4250
jennifer.semko@bakermckenzie.com

Enclosures:

1. Photographs taken at 5204 River Road, Bethesda, Maryland, dated June 23, 2020
(taken by photographer Gail Rebhan)
2. Letter from Dr. Michael L. Blakey, National Endowment for the Humanities
Professor of Anthropology, Africana Studies and American Studies and Director,
Institute for Historical Biology, the College of William & Mary
3. Curriculum Vitae of Dr. Michael L. Blakey, National Endowment for the Humanities
Professor of Anthropology, Africana Studies and American Studies and Director,
Institute for Historical Biology, the College of William & Mary
4. Letter from Tammy Hilburn, Archaeologist/Cultural Property Crime Specialist





WILLIAM & MARY

CHARTERED 1693

INSTITUTE FOR HISTORICAL BIOLOGY

Joshua D. Odintz, Esq.
Partner
Baker and McKenzie LLP
815 Connecticut Ave, NW
Washington, DC 20006

27 June 2020

Dear Mr. Odintz,

I write to support action to stop construction on the Moses Cemetery, Bethesda, Maryland pursuant to the establishment of 1) a substantial process for responding to public demands to preserve Moses Cemetery and 2) a transparent process of monitoring for the identification of skeletal remains and other evidence of intrusion into burials if construction is allowed to go forward. I have been shown a photograph by archaeologist, Tammy Hilburn, with evidence that such intrusive excavation may have already occurred, requiring close physical examination to confirm. I am also aware that members of the public (descendant community or stakeholders) most affected by the disposition of this site have been prevented from obtaining sufficient evidence to confirm or deny the destruction of burials. I consider this to be an ethical violation of their right to remain socially and psychologically unharmed by the archaeology (see American Anthropological Association [Ethics](#)) and development currently taking place.

In the current situation of construction to which the site has fallen, a monitoring process with access and accountability to descendant community stake holders is necessary to mitigate public harm. The problem, however, begins earlier in the 106-esque process undertaken by Montgomery County which proceeded to construction without public accountability. The history of this site in which I was earlier involved has always been troubled by obstruction to the Macedonia Baptist Church congregants who have acted consistently with the definition of “descendant community” according to the National Trust for Historic Preservation rubric of 2018. But they have not been assigned their rightful place at the decision-making table from the beginning of this project.

I and another bioarchaeologist, Dr. Rachel Watkins, American University, submitted two iterations of a scope of work to Gwen M. Wright of the Montgomery County Planning Department on January 23 and February 10, 2017. In keeping with best practices, we attempted, through this scope, to implement an ethical process of phase I archaeological mitigation by embedding ourselves with a local archaeological contract firm, The Ottery Group. We proposed to ensure “simultaneous” reporting of archaeological findings to all stakeholders while conducting research to confirm and identify the presence and

boundary of the cemetery prior to construction. That scope required Dr. Watkins to be present during fieldwork once per day and then once per 2 days during initial fieldwork. If human remains were identified, we proposed to immediately report them to stakeholders/descendant community representatives and the County.

Ottery had been recommended to us in our search for a local contract firm and, assuming our technical skills and ethical commitments would be imbedded with them, we recommended them to Montgomery County Planning with our inclusive scope. After attempting to meet several times with the Ottery Group, with whom we had communicated electronically, it was discovered that they – despite their representation of not having a contract – had negotiated a contract with the County independently of our team. Thus, the scope of work we had submitted could not be concluded and the contracted archaeologists worked alone without the transparency and technical component we had attempted to implement.

The only report of the Ottery Group with which I am aware recommended further testing (this could include ground penetrating radar or GPR and/or test pit excavation). Such a step is customary, but no information regarding the conduct of such tests has been made available to me. I have seen no further evidence of archaeological work. I have been very aware that the local and descendant community have been persistently outraged at the handling of the site, which represents harm to them.

Now I find that construction is going forward against public protest. The public's own regular attempts to examine progress at the site, with the assistance of an archaeologist (Tammy Hilburn), have not shown the presence of archaeological monitoring of construction backfill to see whether or not burials have been disturbed. What is more, as per our initial attempted scope, there has been no reporting to the concerned community. The photograph I was shown on June 25th taken by Tammy Hilburn shows fragments of light-colored elongated material consistent with skeletal material, but is not currently verifiable as such. Also, a suspicious flagged area of possibly organically rich soil (a unique area of vegetation is growing there) recently covered with gravel, could represent a burial. Thus, this possibility remains as an unnecessary psychological burden (and potential violation of the public trust) because no mechanism for their verification of its significance was put in place. There is no reason for public confidence in the County's reliability given what I know to be a history of deaf intransigence on the County's part relative to a sincerely-expressed desire to protect an ancestral sacred space.

I was director of the New York African Burial Ground Project from 1992-2009 as a troubled, similar case to Bethesda. There, an 18th century African cemetery underwent a similarly volatile process involving the General Services Administration's obstruction of community concerns (expressed at bi-weekly meetings by public groups organized by Mayor David Dinkins and State Senator David Patterson). After obstructive unresponsiveness, reminiscent of Bethesda, the case was taken to Congress which resulted in stopping construction and the establishment of a Federal Advisory (Steering) Committee inclusive of descendant community representatives. Ultimately, part of construction would be allowed and much of it was replaced by what is now a U.S.

National Monument, careful research, preservation and reburial under the empowered advisement of descendant community representatives. The greatest public costs both financially and in terms of social and psychological pain resulted from the obstructive efforts of the GSA, not its ethical resolution.

It is my opinion that the minimal archaeological responsibility for this site is to ascertain the extent of the cemetery for open public decisions about its disposition, including the possibility of preservation. If preservation is decided upon and construction continues in areas outside the estimated perimeter of Moses Cemetery, continuous daily monitoring of construction by anthropologists with familiarity with skeletal and funerary remains should take place on days of construction. Because distrust has been earned by the County, daily reports and physical access to locations of soil disturbance must be made available to at least one trusted member of the descendant groups on a regular basis. The descendant community, is represented by Macedonia Baptist church and the organization of African American citizens around it. A decision to preserve the cemetery or not needs to be established with influential community input prior to construction. Usually a memorandum of agreement which defines the signatories' legal responsibilities, including a descendant advisory group, would have been established at the beginning (by 2017). The situation, otherwise, is out of public control. Developers control it.

Finally, one of my specializations as an anthropologist is the study of scientific racism. In addition to the technical flaws and violations, certainly of the spirit of the law, which are occurring here, is the kind of arrogance I saw the first time I met with the County. I asked them to have more than patronizing respect for those with whom they were dealing and they chose not to. The increasingly emotional response of the community is a reasonable reaction to unreasonable attempts by others to take what they assume, with racist entitlement, to be theirs. The combination of bureaucratic, business, and white arrogance has been evident since my first meeting with Montgomery County Planning and the developers in 2017. To require the n-word to be spoken, as some legal standards for harassment and discrimination essentially do, simply opens an easy avenue for denial. Racism, like ethics, extends beyond neat legal definitions. The treatment which Macedonia Baptist Church members have received as they attempt to uphold the dignity of their sacred space, in my professional opinion, is simply another spelling of the n-word, as those who believe everything belongs to them attempt to have their way over the blacks they dismiss. Indeed, Moses Cemetery would either have been properly removed or preserved during the 1950s had the white County bureaucracy respected the full human citizenship of the black people concerned. It continues.

With regards,

A handwritten signature in black ink, appearing to be the initials 'J. B. J.' or similar, written in a cursive style.

National Endowment for the Humanities Professor of Anthropology, Africana Studies, and American Studies, Director of the Institute for Historical Biology

CURRICULUM VITAE

PERSONAL INFORMATION

Name: Michael L. Blakey

Date: 31 December 2019

Office Address:

Institute for Historical Biology
Department of Anthropology
112-113 Washington Hall
College of William and Mary
Williamsburg, Virginia 23187-8795

E-mail: mlblak@wm.edu

Phone - Institute for Historical Biology (757) 221-7681/FAX 221-7682

Home Address:

3133 Cappahosic Road
Gloucester, Virginia 23061

Cell Phone - (301) 467-4816

POSITION

National Endowment for the Humanities Professor of Anthropology, Africana Studies
and American Studies
Director, Institute for Historical Biology

EDUCATION

Doctor of Philosophy, Anthropology, University of Massachusetts-Amherst, 1985
Master of Arts, Anthropology, University of Massachusetts-Amherst, 1980
Visitor, Department of Biological Anthropology, University of Oxford, UK, 1980
Life-Events Instrument Training, Bedford College, University of London, UK, 1980
Bachelor of Arts, College of Liberal Arts, Howard University, 1978

PREVIOUS ACADEMIC AND RESEARCH POSITIONS

Director (2010) and Co-Director (2012-2014), Remembering Slavery, Resistance, and
Freedom Project, a partnership of the Virginia General Assembly, Virginia Foundation
for the Humanities, and the College of William and Mary.
Scientific Director, New York African Burial Ground Project, Howard University, 1992-
2004
Adjunct Professor, Department of Anatomy, College of Medicine, Howard University,
1991-2001

Professor of Anthropology, College of Arts and Sciences, Howard University, 1997-2001
Curator of the W. Montague Cobb Human Skeletal Collection, Howard University, 1989-2001

Visiting Professor of Anthropology, Brown University, 2000

Distinguished Visiting Scholar, Institute for Research in African American Studies, Columbia University, 1997

Associate Professor and Graduate Associate Professor of Anthropology and Adjunct Associate Professor of Anatomy, Howard University, 1989-1997

Research Associate in Physical Anthropology, National Museum of Natural History, Smithsonian Institution, 1985-1994

Lecturer, Institute for Policy Studies, Washington School, 1990-1991

Visiting Associate Professor of Anthropology, Dipartimento Di Biologia Animale E Dell'Umo, "La Sapienza," Universita Di Roma, 1990

Visiting Associate Professor of Anthropology, Spelman College, 1989

Assistant Professor of Anthropology and Adjunct Assistant Professor of Anatomy, Howard University, 1985-1989

Adjunct Assistant Professor, Department of Psychology, Delaware State College, 1982

Teaching Assistant, Department of Anthropology, University of Massachusetts-Amherst, 1981

Teaching Assistant, WEB DuBois Department of African American Studies, University of Massachusetts-Amherst, 1979-1980

HONORS AND SERVICE

The History Makers, Library of Congress accession (2013)

Consultant, the Kontos Well Project, Virginia Commonwealth University (2013-2015).

Recipient, Prize for Distinguished Achievement in the Critical Study of North America, Society for the Anthropology of North America, American Anthropological Association (2012).

Recipient, African American Trailblazers in Virginia History, Library of Virginia (2012)

Member, External Review Committee for Department of Anthropology, American University (2011).

Member, External Review Committee for Department of Anthropology, St. Mary's College (2010).

Member, Martin Luther King, Jr. Memorial Commission of the General Assembly of the Commonwealth of Virginia, Lincoln Sub-Committee 2010-2014.

Recipient, The Africana Studies Distinguished Public Scholar Lifetime Achievement Award, Indiana University/Purdue University, Indianapolis (2009).

Recipient, Centennial Medal, Graduate School of the University of Massachusetts, Amherst (2008).

Member, Scholarly Advisory Committee, National Museum of African American History and Culture, Smithsonian Institution 2005-present.

Recipient, Elija Muhammad Human Rights Award, African Scientific Research Institute, Chicago (2005).

Presenter, Benjamin Mayes Lecturer, Morehouse College, Atlanta (2005).

Recipient, Certificate of Appreciation, Governor's School for Science and Technology, Hampton Rhodes, Virginia (2002-2003).

Member, American Antiquarian Society, 2001-present.
 Recipient, Enlightenment Award, American Slaves Foundation, Washington, DC, 2000
 The United States Representative to the Council of the 4th World Archaeological
 Congress, Cape Town, 1999
 Member, Advisory Panel, African Voices Project/Africa Hall Exhibition, Smithsonian
 Institution, 1995-1999
 Member, Commission to Review the Organizational Structure of the American
 Anthropological Association (AAA), 1997-1998
 Advisor, AAA Statement on Race and 2000 Census, 1998
 Recipient, Human Rights Award, Lift Every Voice, Inc., Hollywood, 1998
 Permanent Representative to Washington, DC, African Bureau of Educational Sciences,
 Organization of African Unity, Kinshasa and Geneva, 1996
 Recipient, Black History Makers of Today, McDonald's Family Restaurants, 1997
 Recipient, Service Award, Blacks In Government, Navy Metro Chapter, Washington,
 1996
 Member, Committee to Revise the UNESCO Statement on Race, American Association
 of Physical Anthropologists, 1994-1996
 Conferee, Doctor of Science (hon.), York College, City University of New York, 1995
 Recipient, International Triple C Award for Education, Caribbean Americas Business
 Network, 1994
 Recipient, Legacy Award, New Horizons Award, and Interdisciplinary Cooperation
 Recipient, Commendation, Division of Academic Affairs, Howard University, 1994
 Member, Panel on The Human Genome Diversity Project, Wenner-Gren Foundation for
 Anthropological Research, Rockefeller Institute, New York, 1993
 Member, Panel on Political-Economic Approaches to Biological Anthropology, Wenner-
 Gren Foundation, Cabo San Lucas, 1992
 Member, Executive Council of the Society for Medical Anthropology, AAA, 1989-1992
 Chairman, Taskforce on Graduate African American Studies, Howard University, 1990-
 1991
 Member, Panel on Disorders of Industrial Societies, AAA and Wenner-Gren Foundation,
 1988-1991
 Member, Commission on the Treatment of Human Remains, 1989-1990, AAA
 Coordinator of the Anthropology Program, Department of Sociology and Anthropology,
 Howard University, 1987-1989
 President, Association of Black Anthropologists, American Anthropological Association,
 1987-1989.
 Member, Committee to Revise the Principles of Professional Responsibility and Code of
 Ethics, AAA, 1987-1988
 Honorary Member, Golden Key National Honor Society, 1988
 Member, Committee on the Status of Minorities, AAA, 1987-1990

COURSES TAUGHT

Anthropological Reflections of the African Diaspora
 Introduction to Biological Anthropology
 Biology and Culture
 Biocultural Anthropology

Human Skeletal Biology
Bioarchaeology and the African Diaspora
Medical Anthropology
The Construction of Racial Ideology in the US
Race, Biology, and Culture
The Idea of Race
Senior Seminar in Bioarchaeology
Honors Seminar in Evolutionary Anthropology
Biological Anthropology
Anthropological Reflections of the African Diaspora

FELLOWSHIPS AND GRANTS

Director, Institute for Historical Biology, College of William and Mary (funded by the College annually \$37,500; USGSA 2003-4 contract \$80,000, Guana Project contract \$6,400, Colonial Williamsburg project \$6,300, Remembering Slavery, Resistance, and Freedom project \$31,000 from CWM, VA General Assembly, and Virginia Foundation for the Humanities (2010-2013), and others 2001-present.

Principal Investigator, New York African Burial Ground Project, Howard University (funded by USGSA \$5,900,000), 1993-2001

Principal Investigator, Cobb Collection Curation Project: Phase II, Howard University (funded by the National Science Foundation \$177,000) 1992-1995

Principal Investigator, Nutritional Stress, Maturation, and Size in the Cobb Collection (Howard University-Sponsored Faculty Research Grants \$7,000), 1991

Principal Investigator, Cobb Collection Curation (Howard University-Sponsored Faculty Research Grants \$10,000), 1987-1988

Minority Graduate Student Fellow, National Science Foundation, 1979-1982

PUBLICATIONS

Refereed

Blakey, ML (in prep., anticipated publication 2020) "Archaeology Under the Blinding Light of Race," Current Anthropology.

Blakey, ML 2020 "On the Biodeterministic Imagination," Archaeological Dialogues, Cambridge University Press. 27 (1) 1-16.

Blakey, ML and Rankin-Hill, Lesley 2016 Political Economy of African Forced Migration and Enslavement in Colonial New York: an historical biology perspective, in D Martin and M Zuckerman (eds) Biocultural Anthropology. New York: Wiley-Blackwell.

Blakey, ML 2014 L'African Burial Ground de New York: d'un secret national a un monument national. Archeologie de l'esclavage colonial. La Decouverte, Paris. 319-346.

Barrett, AR, and Blakey, ML 2011 Life Histories of Enslaved Africans in Colonial New York: a Bioarchaeological Study of the New York African Burial Ground, In (Sabrina C

- Agrawal and Bonnie A Glencross, eds) *Social Bioarchaeology*. Chichester, UK: Wiley-Blackwell. 212-251.
- Blakey, ML 2010 *Le Projet de Cimetiere Africain: un Paradigme pour Cooperation?* Museum International. Paris: UNESCO 245-246: 64-71 (also in English translation).
- Armelagos, GJ, Goodman, AH, Harper, KN, and Blakey, ML 2009 Enamel Hypoplasia and Early Mortality: Bioarchaeological Support for the Barker Hypothesis. Evolutionary Anthropology 18:261-217.
- Blakey, ML, Mack, ME, Shujaa, KJ, and Watkins, R 2009 Laboratory Organization, Methods, and Processes. In (Blakey, Michael L and Rankin-Hill, Lesley M) The New York African Burial Ground: Unearthing the African Presence in Colonial New York, Volume 1: Skeletal Biology of the New York African Burial Ground, Washington, DC: Howard University Press. 1:49-69.
- Jackson, FLC, Mayes, A, Mack, ME, Froment, A, Keita, SOY, Kittles, RA, George, M, Shujaa, KJ, Blakey, ML, and Rankin-Hill, LM 2009 Origins of the New York African Burial Ground Population: Biological Evidence of Geographical and Macroethnic Affiliations Using Craniometrics, Dental Morphology, and Preliminary Genetic Analyses In (Blakey, ML and Rankin-Hill, LM, eds). 69-92.
- Goodman, AH, Jones, J, Reid, J, Mack, ME, Blakey, ML, Amarasiriwardena, D, Burton, P, and Coleman, D 2009 Isotopic and Elemental Chemistry of Teeth: Implications for Places of Birth, Forced Migration Patterns, Nutritional Status, and Pollution. In (Blakey, ML and Rankin-Hill, LM, eds). 95-118.
- Rankin-Hill, LM and Blakey, ML, Howson JE, Wilson, SD, Brown, E, Carrington, SHH, and Shujaa, KJ 2009 Demographic Overview of the African Burial Ground and Colonial Africans in New York. In (Blakey, ML and Rankin-Hill, LM, eds). 119-142.
- Blakey, ML, Mack, ME, Barrett, AR, Mahoney, SS, and Goodman, AH 2009 Childhood Health and Dental Development. In (Blakey, ML and Rankin-Hill, LM, eds). 143-156.
- Mack, ME, Goodman, AH, Blakey, ML, and Mayes, A 2009 Odontological Indicators of Disease, Diet, and Nutrition Inadequacy. In (Blakey, ML, and Rankin-Hill, LM, eds). 157-168.
- Null, CC, Blakey, ML, Shujaa, KJ, Rankin-Hill, LM, and Carrington, SHH 2009 Osteological Indicators of Infectious Disease and Nutritional Indadequacy. In (Blakey, ML and Rankin-Hill, LM, eds). 169-198.
- Wilczak, C, Watkins, R, Null, CC, and Blakey, ML 2009 Skeletal Indicators of Work: Musculoskeletal, Arthritic and Traumatic Effects. In (Blakey, ML and Rankin-Hill, LM, eds). 199-227.
- Blakey, ML, Rankin-Hill, LM, Howson, JE, Carrington, SHH 2009 The Political Economy of Forced Migration: Sex Ratios, Mortality, Population Growth, and Fertility among Africans in Colonial New York. In (Blakey, ML, and Rankin-Hill, LM, eds). 255-259.
- Blakey, ML 2008 An Ethical Epistemology of Engaged Biocultural Research, In (Junko Habu, Clare Fawcett, and John Masunaga, eds) Evaluating Multiple Narratives: Beyond Nationalist, Colonialist, Imperialist Archaeologies New York: Springer. 17-28. Reprinted (2010) in R. Preucel and S. Mrozowski (eds) Contemporary Archaeology in Theory: The New Pragmatism. London: Blackwell Pub.
- Blakey, ML, and Barrett, A 2004 Analysis of Two Human Skeletons from Smith's Fort. Bermuda Journal of Archaeology and Maritime History 15:48-69.

- Mack, ME, and Blakey, ML 2004 The New York African Burial Ground Project: Past Biases, Current Dilemmas, and Future Research Opportunities. Historical Archaeology 38:10-17.
- Blakey, ML 2001 Bioarchaeology of the African Diaspora in the Americas: its origins and scope, Annual Review of Anthropology 30:387-422.
- Blakey, ML 2001 The Study of New York's African Burial Ground: biocultural and engaged. In (SS Walker, ed) African Roots/American Cultures: Africa in the Creation of the Americas. Lanham:Rowman and Littlefield Pubs. 222-231.
- Blakey, ML 1999 Scientific Racism and the Biological Concept of Race, Literature and Psychology 45:29-43.
- Rankin-Hill, LM and Blakey, ML 1999 W. Montague Cobb: physical anthropologist, anatomist and activist (reprinted from American Anthropologist) In (IE Harrison and FV Harrison, eds) African American Pioneers in Anthropology. Urbana: University of Illinois Press. 101-136.
- Blakey, ML 1998a The New York African Burial Ground Project: an examination of enslaved lives, a construction of ancestral ties. Transforming Anthropology. 7:53-58.
- Blakey, ML 1998b Beyond European Enlightenment: toward a critical and humanistic human biology. In (AH Goodman and TL Leatherman, eds) Building a New Biocultural Synthesis: political-economic perspectives in human biology. Ann Arbor: University of Michigan Press. 379-406.
- Perry, W and Blakey, ML 1997 Archaeology as Community Service: the African Burial Ground Project in New York City. North American Dialogue 2(1) (reprinted as chapter 9 of Lessons from the Past: an introductory reader in archaeology by KL Feder. 45-51).
- La Roche, CJ and Blakey, ML 1997 Seizing Intellectual Power: The dialogue at the New York African Burial Ground. Historical Archaeology 31:84-106
- Blakey, ML, Jenkins, S, Jemison, D, and Leslie, TE 1997 Dental Indicators of Fetal and Childhood Health in 19th Century African Americans. In (LR Sloan and BJ Starr, eds) Pathways to Success. Washington, DC: Howard University Press. 177-194
- Blakey, ML 1997 W. Montague Cobb (1904-1990). In (F Spencer, ed) History of Physical Anthropology: an encyclopedia. New York: Garland Pub. 288-289.
- Blakey, ML and Armelagos, GJ 1997 Comment on "Hypoplastic area method for analyzing enamel hypoplasia. American Journal of Physical Anthropology 102:295-296.
- Blakey, ML 1996 Anthropological 'Objectivity' and the Denial of History. In (JA Ladner and S Gbadegesin, eds) Ethics, Higher Education and Social Responsibility. Washington, DC: Howard University Press. 99-106.
- Blakey, ML Race, Nationalism, and the Afrocentric Past. In (P Schmidt and T Patterson, eds) Making Alternative Histories. Santa Fe: School of American Research Press. 213-228.
- Blakey, ML 1996 Skull Doctors Revisited. In (L. Reynolds and L. Lieberman, eds) Race and Other Misadventures: essays in honor of Ashley Montagu in His Ninetieth Year. New York: General Hall, Inc. 64-95.
- Blakey, ML, Leslie, TE, and Reidy, JP 1994 Frequency and Chronological Distribution of Dental Enamel Hypoplasia in Enslaved African Americans: a test of the weaning hypothesis. American Journal of Physical Anthropology 95:371-384.

- Blakey, ML 1994 Passing the Buck: nationalism and individualism as anthropological expressions of Euro-American denial. In (S Gregory and R Sanjek, ed) Race. New Brunswick: Rutgers University Press. 270-284.
- Blakey, ML 1994 Psychophysiological Stress as an Indicator of Disorder in Industrial Society: a critical theoretical formulation for biocultural research. In (S Forman, ed) Diagnosing America: anthropology and public engagement. Ann Arbor. University of Michigan Press. 149-192.
- Rankin-Hill, LM and Blakey, ML 1994 W. Montague Cobb: physical anthropologist, anatomist, and activist, American Anthropologist. 96:74-96.
- Vargiu, R, Coppa, A, and Blakey, ML 1993 L'ipoplasia dello Smalto dei Denti nelle Necropoli di Campli (Teramo) e di San Marzano (Salerno), Anthropologia Contemporanea 16:345-350.
- Blakey, ML 1991 Man and Nature: white and other. In (FV Harrison, ed) Decolonizing Anthropology Washington, DC: American Anthropological Association and Association of Black Anthropologists. 8-16.
- Blakey, ML, Coppa, A, Damadio, S, and Vargiu, R 1990 Comparison of Dental Enamel Defects in Christian and Meroitic Populations at Geili, Central Sudan. International Journal of Anthropology 5:193-202.
- Blakey, ML 1990 American Nationality and Ethnicity in the Depicted Past. In (P Gathercole and D Lowenthal, eds) London: Allen and Unwin. 38-48.
- Blakey, ML 1988 Social Policy, Economics, and Demographic Change in Nanticoke-Moor Ethnohistory, American Journal of Physical Anthropology 75:493-502.
- Blakey, ML 1987 Skull Doctors: intrinsic social and political bias in the history of American physical anthropology; with special reference to the work of Ales Hrdlicka, Critique of Anthropology 7:7-35.
- Blakey, ML and Armelagos, GJ 1985 Deciduous Enamel Defects in Prehistoric Americans from Dickson Mounds: prenatal and postnatal stress, American Journal of Physical Anthropology 66:371-380.
- Blakey, ML 1983 Sociopolitical Bias and Ideological Production in Historical Archaeology. In (JM Gero, DM Lacy, and ML Blakey, eds) The Socio-Politics of Archaeology Research Reports 23, Department of Anthropology, University of Massachusetts. 5-16.
- Blakey, ML 1981 Hypoplasia and Hypocalcification in Deciduous Dentition from Dickson Mounds. In (D Martin and P Bumsted, eds) Biocultural Adaptation: Comprehensive Approaches to Skeletal Analysis. 24-32.

Books

- Blakey, ML Beyond the Blinding Light of Race (in preparation) 2015-
- Blakey, ML and Rankin-Hill, LM, eds 2009 The New York African Burial Ground: Unearthing the African Presence in Colonial New York, Vol. 1; Skeletal Biology of the New York African Burial Ground. Washington, DC: Howard University Press. Pp.567.
- Gero, JM, Lacy, DM and Blakey, ML, eds 1983 The Socio-Politics of Archaeology. Amherst: Research Reports 23, Department of Anthropology, University of Massachusetts.

Invited Scholarly Papers (sample of past 25 years)

Blakey, ML 2019 Panel Presentations, 50th Years of Engaging Anthropology Conference, Department of Anthropology, University of Massachusetts-Amherst (October).

Blakey, ML 2019 “African Diasporic Founders of Biocultural Anthropology,” African Studies Association of Africa Conference, Nairobi, Kenya (October)

ML Blakey, Olanrewaju Lasisi and Jessica Bittner 2019 (Presenter and Symposium Organizer), “The Corporal Evidence of Northern Enslavement and its Challenges,” Current State of the Archaeology of Slavery, ASWAD, William & Mary (November, 6).

Blakey, ML Panelist, “Working Within Our Own Communities” Roundtable, American Anthropological Association Annual Meeting, Vancouver (November 23).

Blakey, ML 2019 “Bioarchaeology at New York’s African Burial Ground as Activist Science,” Fifth Annual Sune Lindqvist Lecture, Uppsala Universitet, Uppsala, Sweden.

Blakey, ML 2018 “Archaeology Under the Blinding Light of Race,” Conference on Atlantic Slavery and the Modern World, Wenner-Gren Foundation, Sintra, Portugal (small expert panel, papers to be published in Current Anthropology)

Blakey, ML 2018 Festschrift for Larry Zimmerman, Society for American Archaeology, Washington, DC, April.

Blakey, ML 2017 New York’s African Burial Ground, Muscarelle Museum, 50th Anniversary of Black Students in Residence, College of William and Mary, Williamsburg, Virginia, November, 2017.

Blakey ML 2017 Engaged Anthropology is Better Science, Symposium on Beyond the African Burial Ground...” American Anthropological Association Annual Meeting, Washington, DC, November.

Blakey, ML 2017 Activist Scholarship and its Deceptive Shadow, Keynote, Annual Conference on Public Anthropology, American University, November.

Blakey, ML 2017 Now Imagine They Are Human, Center for African American Religion, NMAAHC, Smithsonian Institution, October.

Blakey, ML The New York African Burial Ground, Endowed Lecture, Wittenberg University, Springfield, Ohio, March 2017.

Panel Member, 25th Anniversary of the African Burial Ground, Schomburg Center for Research in Black Culture, New York, NY 9 November 2016

Blakey, ML 2016 Epistemology and Ethics of the African Burial Ground, Beyond the African Burial Ground I, symposium organized by ML Blakey, AR Barrett, and G. Turner, World Archaeological Congress, Kyoto, Japan, August.

Blakey, ML. 2016 Activist Anthropology and Race at the New York African Burial Ground, Harriet Wilkes Honors College, Florida Atlantic University, Jupiter, Florida, 8 April 2016.

Blakey, ML 2016 The Blinding Light of Race, The New York African Burial Ground as Historical Biology, and Anthropological Reflections of the African Diaspora: How Might We Know Our Future in the symposium on Race, Racism, and the Construction of Black Modernities, IFAN/University Cheikh Anta Diop, West African Research Center, and the National Museum of African American History and Culture, Dakar, Senegal, 7-12 February.

Blakey, ML 2014 Moderator, panel on interpretation of slavery, St Mary’s College, St Mary’s City, Maryland 2 December.

Blakey, ML 2014 Distinguished Scholar Lectures on Historical Biology of the New York African Burial Ground and Race, Department of Anthropology, University of Tennessee, Knoxville, November 24-25.

Blakey, ML 2014 Keynote on Homo reminiscens, Department of Anthropology, University of South Florida, Tampa, 18 November.

Blakey, ML 2013 Epistemology and Ethics of an Activist Science at New York's African Burial Ground, Symposium on Archaeology and Politics, Wesleyan University, Middletown, CT (November 2013).

Blakey, ML 2013 Setting the Stage for Understanding Ancestry of African Americans, The African Diaspora: Integrating Culture, Genomics and History Symposium, Baird Auditorium, National Museum of Natural History, SI (12 September)

Blakey, ML (2011-13) papers delivered at festschrift symposia for R. Brooke Thomas, American Anthropological Association Annual Meeting, Montreal, 2011, Johnnetta B. Cole, American Anthropological Association Annual Meeting, San Francisco, 2012, and George J. Armelagos, American Association of Physical Anthropologists Annual Meeting, Knoxville, 2013.

Blakey, ML 2012 Human Variation and the Non-Existence of Race, Clemson University, (2012) and Norfolk State University, 1619 Conference Plenary (27 September 2013).

Blakey, ML 2012 Objeto, corpo e memoria social: representagoes passado afro-americanos, Annual Meeting of the Association of Brazilian Anthropologists, Sao Paulo, Brazil (4 July).

Blakey, ML 2012 New York's African Burial Ground: from National Secret to National Monument, public lectures at the Federal University-Goiania, and the National Museum, Rio de Janeiro.

Blakey, ML 2012 Un cemetiere africain a New York au XVIII siècle: du secret national au monument national, Archeologie de l'esclavage colonial, Muse quai Branly, Paris (May 11).

Blakey, ML 2010 Panel Presentation Commemorating 20th Anniversary of Decolonizing Anthropology (Harrison 1990), American Anthropological Association Annual Meeting, New Orleans.

Blakey, ML 2010 Calling Us Out of Our Name, Newhouse Fellows Lecture, Wellesley College, Boston.

Blakey, ML 2010 African Burial Ground Clientage Model, Annual Public Anthropology Conference, American University, Washington, DC.

Blakey, ML 2010 A Question Regarding the Scope of Discussion, Symposium on The Origins of the African Diaspora in the Historic Triangle, College of William and Mary, 19 March.

Blakey, ML 2009 The New American Racism, Discussion on Race, Congressional Black Caucus forum in honor of 25th anniversary of the Jesse Jackson Presidential Campaign, 18 November, Longworth Congressional Office Building and Capitol Visitor Center, Washington, DC (C-SPAN).

Blakey, ML 2009 The New York African Burial Ground Project: Paradigm for Cooperation?, International Workshop on Heritage and Conflict, University of Massachusetts, Amherst.

Blakey, ML 2009 Egyptology and Race, Dallas Museum of Art, Dallas

Blakey, ML 2009 New York's African Burial Ground: from National Secret to National Treasure, Archaeological Institute of America, Houston.

Blakey, ML 2008 Interpretation and Memorialization of the African Burial Ground National Monument (revised title), World Archaeological Congress, Dublin.

Blakey, ML 2008 Paper in Honor of Merrick Poznanski, Society for American Archaeology, Vancouver.

Blakey, ML 2008 The Idea of Race and the Nature Politic, address when awarded the Centennial Medal of the Graduate School, University of Massachusetts, Amherst, MA.

Blakey, ML 2007 The New York African Burial Ground: from National Secret to National Monument, First Frederick Scott Symposium Keynote Address, Johns Hopkins University; Miami University, Ohio.

Blakey, ML 2006, Biological Determinism as Ideology, Center for the Study of Race, Ethnicity, and Gender, Bucknell University; Department of Africana Studies, Brandeis University.

Blakey, ML 2005 The New York African Burial Ground, Department of Anthropology, University of Minnesota.

Blakey, ML, 2004 Epistemology and Ethics, Symposium on Multiple Narratives in Post-Colonial Archaeology, Society for American Archaeology Annual Meetings, Montreal.

Blakey, ML 2002 Urban Archaeology: An Examination of Slavery and the African Presence in the Northeast. American Museum of Natural History, New York City.

Blakey, ML 2002 The Truth is in the Discussion: Epistemological and Ethical Value of Expanding the Explicit Spheres of Influence and Accountability for Human Biology, 45th Annual Symposium of the Society for the Study of Human Biology, London, UK

Blakey, ML 2001 The New York African Burial Ground, University of California-Davis, University of Michigan, Norfolk State University, MIT Program in Science and Society

Blakey, ML 2000 Keynote Address, Northeastern Anthropological Association, CUNY

Blakey, ML 2000 Epistemology and Ethics of Public Engagement, Panel on ELSI/Human Genome Project, Kennedy School, Harvard University.

Blakey, ML 2000 The New York African Burial Ground and the Struggle for Human Rights, Villanova University, St. Cloud University.

Blakey, ML 1999 Epistemology for a Humanistic Human Biology: the case of the New York African Burial Ground Project at Howard University, X Coloquio Internacional de Antropologia Fisica "Juan Comas," Zacatecas, Mexico.

Blakey, ML 1999 The New York African Burial Ground and the Struggle for Human Rights, University of Illinois, Emory University, Vassar College, The Third Eye, Texas, New York University Slave Route Conference.

Blakey, ML 1999 Interdisciplinary Research, Public Engagement, and the New York African Burial Ground Project, University of Pennsylvania, Telfair Museum of Art, Savannah, National Museum of American History/Smithsonian Middle Passage Conference, Brown University

Blakey, ML, Howson, J, Carrington, S, Hill, MC, Null, C, Keita, SOY, Mack M., Rankin-Hill, LM, and Shujaa, K 1999 Biocultural and Interdisciplinary Approaches to Health and Demography of Africans in Colonial New York, Session on Archaeology, Bioanthropology and African Identity in the Diaspora: Theoretical and Methodological Advances, 4th World Archaeological Congress, Cape Town.

Blakey, ML, Howson, Carrington, S, Hill, MC, Keita, SOY , Mack, M, Rankin-Hill, LM, and Shujaa, K 1998 Biocultural Approaches to the Health and Demography of Africans in Colonial New York,”
 Symposium on Rethinking Biocultural Anthropology for the 21st Century,” 14th International Congress of Anthropological and Ethnological Sciences, College of William and Mary.

Blakey, ML 1998 The status of Race in Biological Anthropology, Session on Ethnic Relations: Race and Ethnicity, Part II, ICAES, College of William and Mary.

Blakey, ML 1998 The New York African Burial Ground and the Struggle for Human Rights, Archaeological Institute of America, Long Island, Robert Stigler Lectureship, University of Arkansas, Loyola University, Chicago, University of California-San Diego, Syracuse University, Blacks in Government Annual Meeting.

Blakey, ML 1998 El Cementerio Africano de Nueva York: Antropología Biocultural y Diálogo Público, Fifth Congress of the Latin American Association of Physical Anthropology “Louis Montaigne,” Habana.

Blakey, ML 1997 Sankofa: The African Burial Ground Project, Archaeological Institute of America, Washington, DC, US Department of State Library, Washington, DC. USEPA, New York, Tuskegee University, Wesleyan University, National Geographic Society, Smithsonian Institution Baird Auditorium, Millersville University, University of New Orleans, University of El Paso, Diggs Gallery, Winston-Salem.

Blakey, ML 1997 Briefing on the New York African Burial Ground Project, Commission on Human Rights, United Nations, Geneva.

Blakey, ML 1997 Critical, Biocultural, and Engaged: Anthropology for the 21st Century, Presidential Symposium on Integrative Theory and Research in Anthropology, AAA Annual Meeting, Washington, DC.

Blakey, ML 1996 Ales Hrdlicka and the Early Years of Physical Anthropology at the Smithsonian Institution, Anthropological Society of Washington and National Museum of Natural History.

Blakey, ML 1996 The New York African Burial Ground Project: Biocultural and Engaged, Bryn Mawr College, National Museum of African Art, The Field Museum, Central Michigan State University, SUNY- Stonybrook, City College-CUNY, University of Texas-Austin/UNESCO Conference, Commission on Human Rights, United Nations, Geneva, Association for the Study of African American Life and History, Charleston, University of Delaware

Blakey, ML 1995 The New York African Burial Ground Phenomenon. Oberlin College, University of Illinois-Urbana, University of California-Berkeley, Michigan State University, SUNY-Albany, University of Maryland, 10th Congress of the Pan African Association for Prehistory and Related Studies, Harare.

Hill, MC, Mack, M, and Blakey, ML 1995 Women, Endurance, Enslavement: exceeding the physiological limits, Skeletal Biology IV: Women’s Bodies, Women’s Lives: biological indicators of labor and occupation, Annual Meeting of the American Association of Physical Anthropologists, Oakland.

Mack, M, Hill, MC 1995 Preliminary Observations of the Dental Pathologies of the African Burial Ground Skeletal Population. Paleopathology and Dental Anthropology, Annual Meeting of the AAPA, Oakland.

And others.

Book Reviews

Blakey, ML 2017 Review of Killer Apes, Naked Apes, and Just Plain Nasty People by Richard J. Perry (2015) Baltimore: Johns Hopkins University Press for American Ethnologist.

Blakey, ML 1996 Review of The Bell Curve: Intelligence and Class Structure in American Life, by Richard Herrnstein and Charles Murray (1994). New York: Free Press, for Current Anthropology Supplement 37: S155-S156.

Blakey, ML 1989 Review of Ecological Imperialism: the biological expansion of Europe, 900-1900., by Alfred Crosby (1986) Cambridge University Press, for Medical Anthropology Quarterly 3:417-421.

Non-refereed

Blakey, ML 2017 New York City's African Burial Ground, History Now, Issue 49, Gilder Lerman Institute of American History, New York.

Blakey, ML 2006 The New York African Burial Ground, In (Haviland, W, Prins, HEL, Walrath, D, and McBride, B eds) The Essence of Anthropology. Cengage Learning. 265-266 (in multiple languages).

Blakey, ML 1998 Bioarchaeology of the African Burial Ground. In Archaeology by David Hurst Thomas. Fort Worth: Harcourt Brace College Publishers. 546-547.

Blakey, ML 1998 Michael L. Blakey, Ph.D., Anthropologist. In (P Cummings and L Cummings, eds) Talking With Adventurers. Washington, DC: National Geographic Society. 24-29.

Blakey, ML and Armelagos, GJ 1997 Comment on Ensor and Irish, American Journal of Physical Anthropology 102:2.

Blakey, ML 1996 Forward of Lay Down Body: living history in African American cemeteries by RH Wright and WB Hughes, III. Detroit: Visible Ink, Press. XIII-XV.

Rankin-Hill, LM and Blakey, ML 1993 William Montague Cobb (1904-1990), American Journal of Physical Anthropology (obituary) 92:545-548.

Blakey, ML 1989 The Professional Caucus: place of refuge, source of change, Academe. September-October. 15-18.

Blakey, ML 1989 A Comment on Representation, Notes from the ABA. 14:2-5.

Blakey, ML 1989 The Future of Anthropology, Anthropology Newsletter. 30:7,8.

Blakey, ML 1987 Comment on "Toward a Critical Archaeology," (MP Leone, PB Potter, and PA Shackel) Current Anthropology 28:3.

Blakey, ML 1987 The World Meets to Discuss the Past, Notes from the ABA 13:2-3.

Blakey, ML 1986 Archaeologists and Apartheid, Anthropology Newsletter 27:2.

Blakey, ML 1986 Patricia A. Jones-Jackson, Anthropology Newsletter (obituary) 27:4,9.

Blakey, ML 1985 Black Anthropologists at the Fifty Fourth Annual Meeting of the American Association of Physical Anthropologists, Notes from the ABA 11:8-9.

Reports

National Trust for Historic Preservation (ML Blakey, co-author) Engaging Descendant Communities in the Interpretation of Slavery at Museums and Historic Sites: a rubric of best practices established by the National Summit on Teaching Slavery, September 26, 2018, James Madison's Monpelier, Orange, Virginia.

Barrett, Autumn, Blakey, ML, Amponsah, Edith, Osborn, Meg, Mensah Abrampah Daniellea, Winsett, Shea, Brown, Brittany, Atkins, Ashley, Turner, Grace, Stanier, Linda, Chapman, Ellen, Camacho, Alex, Shumann, Rebecca, and Saunders, Jenn 2015

Remembering Slavery and Emancipation: Results of Community Conversations and Virginia Residents, Final Report to the Virginia General Assmblly's Martin Luther King, Jur. Memorial Commission, 29 May

Blakey, ML and Crain, C 2011 Analysis of Human Remains Recovered from James Anderson's Public Armory. IHB Report No. 5, 12 May 2011.

Galivan, MD, Mahoney, SS, Blakey, ML, Moretti-Langholtz, D, Shephard, CJ, Mahoney, MA, Fitzgerald, JA, Hayden, AK, McKNight, JW, Goleneshcheva-Coonan, N, Osborne, JH, Heinsman, BE, Volbrecht, CM, Heinsman, SE, Burke, PB 2010 The Chickahominy river Survey: Native Communities in Tidewater Virginia A.D. 200-1600. College of William and Mary, Department of Anthropology, Archaeological Research Report Series, Number 2.

Blakey, ML (with Grace Turner) 2008 Institute for Historical Biology Review of the Virginia Department of Historic Preservation Validation and Assessment Report of The Burial Ground for Negroes, Richmond Virginia by CM Stephenson, 25 June 2008.

Mahoney, SS, Barrett, Kostro, M and Blakey, ML 2005 Analysis of Human Remains from Guana Island, BVI, Report No. 4, Institute for Historical Biology, College of William and Mary, Williamsburg, September 23.

Blakey, ML and Barrett, A 2004 Analysis of Two Human Skeletons from Smith's Fort, Bermuda, Report No. 3, Institute for Historical Biology, College of William and Mary, Williamsburg, 21 June.

Blakey, ML and Mahoney, S 2004 Report on the Human Remains Recovered from Block 23CB on Colonial Williamsburg Property, Report No. 2, Institute for Historical Biology, College of William and Mary, Williamsburg, February.

Blakey, ML and Rankin-Hill, LM 2004 New York African Burial Ground Skeletal Biology Report (Final) US General Services Administration. National Park Service New York African Burial Ground National Monument Website. Pp. 831

Blakey, ML And Mahoney S, 2003 Assessment of Human Remains from Archaeological Site 44Y02, Report No. 1, Institute for Historical Biology, College or William and Mary, Williamsburg, April 28.

Moses, Y, Smedley, A, Blakey, ML et al. 1999 AAA Statement on Race, American Anthropologist 100:712-713.

Blakey, ML 1998 New York African Burial Ground Project Skeletal Biology Report (First Draft), US General Services Administration.

Katz, S, Blakey, ML, Cartmill, M et al. 1996 AAPA Statement on Biological Aspects of Race, American Journal of Physical Anthropology 101:569-570

Blakey, ML 1995 The W. Montague Cobb Human Skeletal Collection and Biological Anthropology Laboratory at Howard University, National Science Foundation, Systematic Collections.

Blakey, ML, Dubinskas, R, Forman, S, MacLennan, C, Newman, KS, Peacock, JL, Rappaport, RA, Velez-Ibanez, C, and Wolfe, AW 1994 Statement to the Profession: the American Anthropological Association Panel on Disorders of Industrial Societies. In (S Forman, ed) Diagnosing America: anthropology and public engagement. 215-312.

Museum, Interpretive, and Ethics Consultancies

Collaborator, NAGPRA Compliance Project, Department of Anthropology under National Park Service (Ashley Spivey, Director).

Advisor, Public Engagement, Architectural Planning Competition, Africa Town, Mobile, AL (April).

Advisor, Angela Site, Jamestown Settlement, National Park Service, 2019.

Participant, Summit on Teaching About Slavery, James Madison's Montpelier, Orange, Virginia, 2018.

Advisor, Belmont Slave Cemetery Preservation, Leesburg, Virginia, 2017.

Advisor, Moses Cemetery Activism, Macedonia Baptist Church, Bethesda, Maryland, 2016-

Participant, Design process for Museum of Black Civilizations, Ministry of Culture, Dakar, Senegal, 2016.

Consultant, Public engagement process for James Madison's Montpelier, Orange, Virginia, 2014-

Consultant, East Marshall Street Well Project, Virginia Commonwealth University, Richmond, Virginia, 2012-2019.

Project Specialist for the National Park Service, African Burial Ground Interpretive Center Design/Build Project, New York, NY, 2006-2009.

Member, Scholarly Advisory Committee, National Museum of African American History and Culture, Smithsonian Institution, Washington, DC., 2005-

Member, Panel on Collaborative Anthropology, American Museum of Natural History, New York, 2008.

Member, Key Advisor Board, Race exhibition and website (understandingrace.org), American Anthropological Association, Minnesota Science Museum, Ford Foundation, and National Science Foundation., 2001-2007

Consultant, Permanent Exhibition on African-American History, Charles Wright Museum, Detroit, MI, 2003-4.

Consultant, African Voices Project, National Museum of Natural History, Smithsonian Institution, Washington, DC, 1994-1997.

And others.

Editorial Boards

Member, Editorial Board, American Anthropologist, 2012-2016

Member, Academic Advisory Board, Annual Editions, Physical Anthropology 2011-12

Member, Editorial Board, Reviews in Anthropology, 2009-.

Member, Editorial Board, Collaborative Anthropology, 2009-.

Member, Editorial Board, Collections: a journal for museum and archives professionals (2004-).

Member, Editorial Board , International Journal of Cultural Property, 2004 -.

Member, Editorial Board, Critique of Anthropology, 1990-2000.

Member, Editorial Board, Medical Anthropology Quarterly, 1992-1994

Media Handling

Subject of numerous documentary films, electronic and print news interviews (see Google).

Joshua D. Odintz, Esq
Partner
Baker and McKenzie LLP
815 Connecticut Ave., NW
Washington, D.C. 20006

June 28, 2020

Mr. Odintz,

This is my statement in support of an action to stop construction at Moses Cemetery, Bethesda, Md.

River Road Moses Cemetery, Montgomery County Cemetery Inventory ID # 327, location: vicinity of 5402 Westbard Avenue, Bethesda, Maryland, has never been delineated or mitigated through the application of archaeological methodologies in a controlled and scientific manner. The cemetery vicinity has been listed, but seems to have not been designated important enough for a controlled investigation by Montgomery County authorities. The people buried in this cemetery were slaves, freed slaves and African Americans who do not exist outside the arc of our nation's history. They are fixed firmly in the soil of our nation's capital region, but the destruction of the cemetery does not seem to merit the same concern from land and parks management authorities as that given to the displacement of a statue of Albert Pike or Robert E. Lee. We can learn nothing from statuary other than a name, a seeming likeness of the individual, placed upon a pedestal, often depicted in an idealized or stylized physical form. We are forced into looking up at a monument on a pedestal, to regard it from below. However, through a careful archaeological mitigation of the River Road Moses Cemetery, we could learn much. Ample material for volumes of scholarly work and scientific information about the African American community that once existed on River Road is being destroyed. We would learn much more from proper investigation of this site than through a vacant gaze upward at a romanticized notion of Robert E. Lee.

The descendant community of River Road Moses Cemetery wants and deserves this information. However, they have not had the benefit of a Memorandum of Agreement or liaison activity with public archaeologists under the employ of Montgomery County. The descendant community is now protesting the denial of their involvement in a site that records their very anatomical presence in the soil of the nation. They have been denied presence of place and involvement in a 106 process that is assumed to be in action, but cannot be verified. Numerous calls have been made to the relevant authorities. A cut-and-pasted letter from County Executive Marc Elrich was recently emailed to stakeholders. An email does not suffice in lieu of a Memorandum of Agreement nor is it sufficient indication of a robust 106 process.

Cemeteries do not always conveniently exist as static features in the landscape, fixed in position by clear boundaries and demarcation of the living from the dead. The funerary land use patterns of this nation, have, over years, been more codified. Historic cemeteries, encroached upon by development and urbanization, are subject to depredation through predatory land use and construction projects which cast aside the importance of archaeological and historical information that can be obtained through careful delineation and mitigation, in the process destroying priceless context that can never be

recovered. To reiterate, River Road Moses Cemetery Site Inventory ID # 327, is a cemetery that has never been delineated, according to the current available reports on file with the Maryland-National Park and Planning Commission. Historic and current structural racism in land deed and real property trading has predicated the current liminal status of River Road Moses Cemetery as subject to the machinations of developers and governmental bureaucracies that have taken no interest in their own guidance documents or the relevant statutes mandating delineation for the cemetery in question.

As the crow flies, River Road Moses Cemetery is approximately 7.9 miles from the White House. This important bioarchaeological and historic site exists squarely in the Washington, District of Columbia/Maryland/Virginia greater metropolitan area. This region is largely developed, with opportunities to mitigate important archaeological sites and historic cemeteries few and far between. The possibility that African American human remains at River Road Moses Cemetery, this rich place of archaeological strata and bioarchaeological information, are currently being dug up, possible biomass and osseous fragments in disturbed soils, tossed here and there, pell-mell, without application of the robust archaeological field methodology at our disposal to save the important information from this site, an inordinate and hateful shifting around of history at the leisure and whim of structural racists, is appalling. I come from the deep south. I really hoped things were better out here. I chose Montgomery County when I moved here because I looked at the demographics. I wanted to live in a place where people were equal. I was so proud to be here. Because of the current destruction at the site of River Road Moses Cemetery, I'm even more aware that systemic and structural racism is not just a 'southern thing,' it is a national problem.

To add insult to injury, the Montgomery County Cemetery Inventory ID # 327 River Road Moses Cemetery Site entry lists the cemetery as non-delineated and its address as “vicinity of 5401 Westbard Avenue, Bethesda, Maryland”. The cemetery submission sheet on file suggests a use of cadaver dogs as a possible methodology for delineating the cemetery. 'Unleash the hounds' conjures up images one would rather not envision, but must. Such hateful history need not be repeated. A better, saner, less racist approach is to involve the descendant community in a mandated Memorandum of Agreement, allow them to engage stakeholder-approved archaeologists and, please, be a better world.

Conveyance of parcel 177 was made from a private land owner to Maryland-National Capitol Park and Planning Commission (M-NCPPC) in a deed of conveyance on February 27, 2019 that records no survey and with no descendant community involvement or liaison activity. The current disturbance in the “vicinity of 5401 Westbard Avenue,” the listed location for River Road Moses Cemetery and, more specifically at the site of Phased Final Forest Conservation Plan # 1201702800/820170110 / Phase 2 of 3 (Sheeting and Shoring) for Bethesda Self Storage Partners, L.L.C., 5204 River Road, Bethesda, (also doing business as Bethesda Self Storage Partners L.L.C., North Gainey Center Drive, Suite 191, Scottsdale, Az, 85258) Tax Map HM #13 Grid 0000, P171, P177, P191, P219, P242, includes parcel 177, now property of M-NCPPC. A 106 process review petition is in order as the parcel is now the property of M-NCPPC. The construction of Westwood Tower in the 1960's on parcel 175, as included in the cemetery inventory, involved excavation and construction without oversight. Human remains were likely disturbed at this time and shifted over adjacent parcels, indicating an even greater need for delineation. This underhanded, racist tactic and destruction of African American human remains is repeating itself and will repeat itself at the cemetery site if a 106 process review isn't initiated immediately. It's a racist situation that can end now. Black Lives Matter, in life and in death.

I have visited the site almost daily since June 8, 2020. I have seen no screening of dirt nor manifestation of the items or personnel typically associated with proper archaeological methodologies. I have seen archaeological strata and possible biomass, as well as possible osseous fragments, not to mention other cultural material, in piles being shifted around and re-used on the site that is to be the new storage facility. The descendant community and the public are witnessing and protesting this wanton destruction of an important archaeological site for the sake of a storage facility.

I have been moved to tears by this whole affair. I am aware that we as a nation give money to other countries to protect and steward their archaeological heritage. During my previous work at Interpol Washington, United States National Central Bureau, United States Department of Justice, as the Cultural Property Crime Program Manager and Senior Interpol Analyst, Economic Crimes Division, I was happy to see the United States Department of State working out elaborate bilateral agreements to protect cultural property in other lands and to work in the field of cultural property preservation, but, now, ironically, I find, down the road in Bethesda, Maryland, that the basic tenets of historic preservation legislation have no application and equity in historic preservation is naught in my own nation.

A storage facility is not an essential structure. As a matter of fact, paradoxically, there is already a storage facility right across the road on River Road. Yet another storage facility is located on Westbard avenue behind the site in question. The use of storage facilities as a 'place holders' to support future infill urbanization and manipulate constituents into a position of acceptance of infill urbanization is a concept worthy of study, notwithstanding the current construction of yet another storage facility as an abject redundancy.

Construction can wait for proper mitigation and a memorandum of agreement with stakeholders. The time to do the right thing is now, more than ever. If we want to be a better nation, a review of the 106 process at this site is necessary with a concomitant immediate stop work order.

Best regards,

Tammy R. Hilburn
Archaeologist/Cultural Property Crime Specialist

Email








Respect for the dead

Email

From

 [Hannah Dexter](#)

To

 <MCP-Chair MCP-Chair>;  councilmember.jawando@montgomerycountymd.gov;  Councilmember Friedson;  Councilmember Rice;  councilmember.reimer@montgomerycountymd.gov;  MCP-Chair #;  MCP-Chair@mncppc-mc.org

Cc

Subject

Respect for the dead

Date Sent

Date Received



6/30/2020 5:04 PM

Hello Councilmembers,

Thank you for working during this global pandemic. I am emailing you from Los Angeles, California. Loved ones have expressed outrage over the construction happening right now at the historic Bethesda African Cemetery, and that outrage can be heard from across the country. I urge county executive Elrich to use the powers of their office to immediately halt this desecration. I urge each of you to represent your communities, and demand this violence stop. The land needs to be placed in the care of the Macedonia Baptist Church for the proper memorialization. I am disgusted that your city would even entertain the idea of desecrating human remains like this. Have you stopped to consider if it were your family buried there? Poured over with concrete with not consideration or discussion? I demand that this construction be stopped.

Thank you,
Hannah Dexter

Attachments

File Name	File Size (Bytes)	
		
There are no Attachments to show in this view. To get started, create one or more Attachments.		
0 - 0 of 0 (0 selected)		Page 1

Email

Voice Message from 301-7...

Email

From

 MCP-MCVoiceMessage

To

 <MCP-Chair MCP-Chair>;  MCP-Chair #;  MCP-Chair@mncppc-mc.org

Cc

Subject

Voice Message from 301-758-0441 on 6/25/20 1:56 PM for 4605

Date Sent

Date Received

6/25/2020 2:00 PM



Voice Message from 301-758-0441 on 6/25/20 1:56 PM (34 second msg)

MESSAGE:

"Hi I'm calling about the legal being on the road behind McDonald's. I'd like an and to that date construction project as part of the community and as a supporter of asking American Cemetery. We ask-that-there's(?) asking cemetery coalition black lives matter. Please hold the construction and digging of the cemetery at least until activated properly but thank you."



Mark

Mark this message read in your voice mailbox.



Delete

Delete this message from your voice mailbox.

Email

Voice Message from 301-7...

Email

From

 MCP-MCVoiceMessage

To

 <MCP-Chair MCP-Chair>;  MCP-Chair #;  MCP-Chair@mncppc-mc.org

Cc

Subject

Voice Message from 301-758-7152 on 6/25/20 2:19 PM for 4605

Date Sent

Date Received

6/25/2020 2:24 PM



Voice Message from 301-758-7152 on 6/25/20 2:19 PM (34 second msg)

MESSAGE:

"Yeah I'm calling to contribute to the whole thing of the digging at the project plan 120170280 slash 820170110. I think it's super unethical and you need to stop out. That's all next."



Mark

Mark this message read in your voice mailbox.



Delete

Delete this message from your voice mailbox.

There are 43 new and 0 old messages in your mailbox.

From: Fuster, Marco [<mailto:marco.fuster@montgomeryplanning.org>]

Sent: Wednesday, June 10, 2020 9:38 AM

To: Susan S <susanspk@verizon.net>

Cc: LYNNE BATTLE <lbattle273@gmail.com>; Jenny Sue Dailey <jennysuedailey@aol.com>; Marnie Shaul <marnieshaul@gmail.com>; lgireg@hotmail.com

Subject: RE: Westbard Self-Storage

Sue,

Apologies for the delayed responses to your questions, which are embedded below in green text:

- Why is there a new hearing if the certified site plan was consistent with the original Planning Board Resolution?

Although the building footprint is not changing, discrepancies in the related setbacks figures are being addressed by the amendment.

- The setback figures for the west side of the building (closest to the stream buffer) could not be precisely determined at the time of the hearing because the extents of the Park dedication had not yet been pinned down (the ultimate footprint of the new swath of parkland between the HOC site and the Self-Storage building was not finalized at the time of the last Planning Board hearing - see Preliminary Plan condition 18).
 - After the boundary of the Parcel 1 Park dedication was pinned down, the resulting new western property line of the storage facility site was established, and only then could the associated setbacks from the building to the ultimate property be determined (which differed from the anticipated setback approved by the Board).
 - This issue was addressed by the certified Site Plan 820170110 approval with plan notes indicating that either the building footprint would need to be reduced to meet the setbacks figures as approved by the Board, or an amendment to modify the setback figures would be needed for the building footprint to be built as shown. (There is no scenario where the building itself could be moved into the stream valley buffer).

- The applicant claims that the map on the certified plan (and therefore on the original map?) is correct, but the table of data showing setbacks is incorrect. How can we know that in fact the data table is correct and the map is incorrect?

There is no error in the relationship of the stream buffer, property lines, and/or building footprint as shown on the plans. An overlay comparison of the plans was used by staff to confirm there is no change proposed to the building footprint itself as shown at the original hearing and approved by the Planning Board.

- The building will continue to remain outside of the stream valley buffer per Site Plan condition of approval item 8.b (to locate the building outside of the approved stream valley buffer identified on the approved NRI/FSD, as illustrated on the Certified Site Plan).
- Comparisons of the Natural Resource Inventory/Forest Stand Delineation (NRI/FSD), the approved Site Plan 820170110, and the currently proposed amendment, all show

consistency on the stream valley buffer location, in keeping with the condition of approval.

- The site also happens to have a previous NRI/FSD (#420090160) approved in 2008 which was prepared by a separate civil engineer/surveyor.
 - A comparison of the two approved NRI/FSDs shows the same distance from the stream to the property line which further confirms the accuracy of the information.
- Will Parks—or anyone—be able to confirm that the building will be built outside the buffer in the location that is shown on the map, and that the buffer line on the map is in fact correct?

See above for detail on the accuracy of the plans and buffer line. DPS Staff will confirm that the height and setback of the new building are correctly met. I should be able to provide contact information if needed. Furthermore, the process for dedicating the parkland includes survey confirmation and setting of monuments along the boundary lines, however I would defer to Parks Staff for more detailed information on their process.

First, I understand that the site is currently being prepared for the building – I have a photo of earth-moving equipment there. Shouldn't the site plan amendment have been adopted before construction commenced?

The site preparation was allowed under the existing approvals, however the building permit would not be issued until after the amendment.

Second, I recall the problems with boundaries at the Honda site in Bethesda next to the Capital Crescent Trail. Who is responsible to make sure that the self-storage building is placed within the correct boundaries and is not too close to the stream or to neighboring properties?

See above (response to 3rd bulleted question).

Finally, there was supposed to be an agreement between the developer and McDonald's regarding the pedestrian path there. Has the owner worked something out? I know the community would like to see that put in place before things get too far on the site. It is a critical part of the plan, and we were not satisfied with the owner's vague promises about this last year.

Although not required to be finalized until the time of final use and occupancy, the agreement with McDonalds is well underway and nearly completed.

I believe the above responses address your questions, however let me know if you have other concerns at this time.

Thank you,

Marco Fuster
Planner Coordinator - Area 1
Montgomery County Planning Department
Maryland-National Capital Park and Planning Commission
Email: Marco.Fuster@montgomeryplanning.org P: 301-495-4521

RE: Westbard Self Storage Site Plan Amendment (82017011A)



Fuster, Marco
To Lloyd Guerci
Cc Dickel, Stephanie; Hisel-McCoy, Elza



6/3/2020

Lloyd,

I am the assigned the reviewer for Westbard Self Storage Site Plan Amendment (82017011A); apologies for the delay in the response.

Below is a list of points in response to your concerns:

- An overlay comparison of the plans was used to confirm there is no change proposed to the building footprint itself as shown at the original hearing and approved by the Planning Board.
- There is no error in the relationship of the stream buffer, property lines, and/or building footprint as shown on the plans.
 - The building will continue to remain outside of the stream valley buffer per Site Plan condition of approval item 8.b (to locate the building outside of the approved stream valley buffer identified on the approved NRI/FSD, as illustrated on the Certified Site Plan).
 - Comparisons of the NRI/FSD, the approved Site Plan 820170110, and the currently proposed amendment, all show consistency on the stream valley buffer location in keeping with the condition of approval.
 - The site also happens to have a previous NRI/FSD (#420090160) approved in 2008 which was prepared by a separate civil engineer/surveyor.
 - A comparison of the two approved NRI/FSDs shows the same distance from the stream to the property line which further confirms the accuracy of the information.
- Although the building footprint is not changing, discrepancies in the related setbacks figures are being addressed by the amendment.
 - The setback figures for the west side of the building (closest to the stream buffer) could not be accurately determined at the time of the hearing because the extents of the Park dedication had not yet been pinned down.
 - After the boundary of the Parcel 1 Park dedication was pinned down, the resulting new western property line of the storage facility was established, and only then could the associated setbacks from the building to the ultimate property be determined (which differed from the anticipated setback approved by the Board).
 - This issue was addressed by the certified Site Plan 820170110 approval with plan notes indicating that either the building footprint would need to be reduced to meet the setbacks as approved, or an amendment to modify the setback figures would be needed for the building footprint to be built as shown.

(There is no scenario where the building itself could be moved into the stream valley buffer).

- The enhancement to the west building façade were previously addressed by the certified Site Plan 820170110.

I believe the above responses address the points you raised, however let me know if have other concerns or question at this time.

The Planning Board hearing for the amendment is tentatively scheduled for July 16th.

Thank you,

Marco Fuster
Planner Coordinator - Area 1
Montgomery County Planning Department
Maryland-National Capital Park and Planning Commission
Email: Marco.Fuster@montgomeryplanning.org P: 301-495-4521

From: Lloyd Guerci <lgjreg@hotmail.com>
Sent: Wednesday, May 13, 2020 6:13 PM
To: Hisel-McCoy, Elza <elza.hisel-mccoy@montgomeryplanning.org>
Cc: Fuster, Marco <marco.fuster@montgomeryplanning.org>; Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>
Subject: Re: Westbard Self Storage Site Plan Amendment (82017011A)

Hi

Please follow up as soon as you can.

One concern is the location of the building vis-a-vis the Willett Branch buffer. When the project came up the first time, I expressed concern to a person on the Planning staff that the Willett Branch was not shown continuously through a drawing that depicted the storage building location. More precisely, the stream was not shown in the vicinity of the proposed building. The person said it might have been deliberate. In any event, somewhat later on my take on the project was that the Planning staff seemingly succeeded in convincing the applicant to revise the initial application and move the building back from the stream buffer.

Now there is a revision apparently based in part on an error by the applicant in the approved plans. In the circumstances, I don't have confidence in the applicant's drawings as they relate to the location of the proposed storage building. I believe that there needs to be a survey showing the Willet Branch in the area of the proposed storage building, which survey Parks and you accept. Then, with this initial set of survey monuments as the reference points, the building should be located back from the Willet branch, buffer and Willet Branch trail.

Also, as I recall from the Planning Board hearing, the applicant agreed to improve the appearance of the side of the building facing the Willett Branch.

thanks

Lloyd Guerci

From: Hisel-McCoy, Elza <elza.hisel-mccoy@montgomeryplanning.org>
Sent: Friday, April 17, 2020 10:53 AM
To: Lloyd Guerci <lgireg@hotmail.com>
Cc: Fuster, Marco <marco.fuster@montgomeryplanning.org>; Dickel, Stephanie <Stephanie.Dickel@montgomeryplanning.org>
Subject: RE: Westbard Self Storage Site Plan Amendment (82017011A)

Hello Lloyd,

We just received the application so we are still working through it ourselves, but I believe Stephanie assigned Marco Fuster, both of whom are copied above. Please give us a few days to look through everything and we'll follow up next week.

Have a delightful weekend and keep well!

Elza



Elza Hisel-McCoy
Chief, Area 1 Division

Montgomery County Planning Department
8787 Georgia Avenue, Silver Spring, MD 20910
elza.hisel-mccoy@montgomeryplanning.org
301.495.2115



Let's Plan Our Future. Together. THRIVE
THRIVEMONTGOMERY.COM MONTGOMERY 2050

From: Lloyd Guerci <lgireg@hotmail.com>
Sent: Thursday, April 16, 2020 5:32 PM
To: Hisel-McCoy, Elza <elza.hisel-mccoy@montgomeryplanning.org>
Subject: Westbard Self Storage Site Plan Amendment (82017011A)

Elza:

Could you tell me who has been assigned to review the application for an amendment to the site plan? I am particularly concerned about the reduction of the setback in the rear of the proposed building and want to make sure that I understand what is proposed. Two drawings that appear to provide information are:

<https://eplans.montgomeryplanning.org/UFS/31704/90011/07-RSITE-82017011A-001.pdf/07-RSITE-82017011A-001.pdf>

LIST OF AMENDMENTS:

1. REVISIONS TO THE BUILDING SETBACKS:

- A. REDUCTION OF THE FRONT BUILDING SETBACK FROM 33 FEET TO 20 FEET.
- B. REDUCTION OF THE REAR BUILDING SETBACK FROM 19 FEET TO 16 FEET.

2. CONFIRM THE PARCEL 1 DEDICATION AT 4,792 SF AS SHOWN ON THE CERTIFIED SITE PLAN.

<https://eplans.montgomeryplanning.org/UFS/31704/90011/07-RSITE-82017011A-006.pdf/07-RSITE-82017011A-006.pdf>

LIST OF AMENDMENTS: 1. REVISIONS TO THE BUILDING SETBACKS:

- A. REDUCTION OF THE FRONT BUILDING SETBACK FROM 33 FEET TO 20 FEET.
- B. REDUCTION OF THE REAR BUILDING SETBACK FROM 19 FEET TO 16 FEET.

Thank you.

Lloyd Guerci



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Kelly McKone
Bethesda Self Storage Partners
7373 North Scottsdale Road
Suite B270
Scottsdale, AZ 85253

October 9, 2019

Re: Phased Final Forest Conservation Plan # 120170280 / 820170110
Westbard Self Storage, Phase 2 of 3 (Sheeting and Shoring)

Dear Mr. McKone:

Based on the review by Area 1 Planning Staff of the Maryland-National Capital Park and Planning Commission, the Final Forest Conservation Plan for the Sheeting and Shoring Phase is approved as conditioned below. All elements shown on the latest electronic version of the FFCP submitted via ePlans as of the date of this approval memo are required and subject the following conditions:

1. The Applicant must hire a Professional Archeologist who is qualified to recognize human remains and funerary objects (referenced in Preliminary Plan Condition No. 21) to monitor the drilling work associated with the tiebacks in the northwest corner of the foundation which is closest to the cemetery.
 - a. If human remains or funerary objects are encountered at any time on any properties subject to Preliminary Plan 120170280 (Parcels 242, 191, 217, and 177, on Tax Map #HM13, Bethesda, Maryland), then the Historic Preservation Section of the Montgomery County Planning Department must be notified immediately.
 - b. Even if no material of interest is found, the Professional Archeologist must maintain and provide reporting of their observations including photographs of the related construction activity, to the Historic Preservation Section of the Montgomery County Planning Department within two weeks of completion of the related construction activity.
2. The sediment & erosion control plan for the sheeting and shoring must be consistent with the LOD and the associated tree/forest preservation measures of the Final Forest Conservation Plan (FFCP).
3. Inspections must occur consistent with Section 22A.00.01.10 of the Forest Conservation Regulations.

Any changes from the approved Final Forest Conservation Plan may constitute grounds to rescind or amend any approval actions taken, and to re-evaluate the site for additional or amended plantings. If

there are any subsequent additions or modification planned for this site, a separate amendment must be submitted to M-NCPPC for review and approval prior to those changes occurring.

Please contact Mr. Stephen Peck at <mailto:Stephen.Peck@montgomeryplanning.org> or at 301-495-4564 to schedule all necessary forest conservation inspections. If you have any questions regarding these actions, please feel free to contact Marco Fuster at 301-495-4521.

Sincerely,



Elza Hisel-McCoy
Chief, Area 1

Cc. Brad Fox (Bohler Engineering)



DATE: May 4, 2020
TO: Patrick Curtis, Inspector; Montgomery County DPS
FROM: Boyd Sipe M.A., RPA
RE: 5204 River Road Property Archeological Monitoring, Week 1

This transmittal documents Week 1 (April 27- May 1) of archeological monitoring at the 5204 River Road Property (± 1.5 acres), Montgomery County, Maryland (Figure 1). Thunderbird Archeology, a division of Wetland Studies and Solutions, Inc. (WSSI) of Gainesville, Virginia provided archeological monitoring services within the project area on April 27, 2020 and April 29, 2020. No additional excavation and monitoring occurred during the week of April 27- May 1, 2020 due to weather delays.

Excavation was limited to removal of three (3) feet of fill from the footprint of the proposed building during the current monitoring period (Figure 2). All monitored excavation was conducted using a grading (flat or smooth-bladed) bucket. Monitored excavation began in the northwestern corner of the building footprint and proceeded east along the southern edge of the footprint.

Subsoil was not reached during this monitoring period. The WSSI monitor observed excavation of the remnants of a building dating to the 20th century (Figure 3), based on 1950s air photos, a modern concrete footer (Figure 4), and cable bank. These features do not appear to be related to the cemetery. As such, these were photographed and noted but not archeologically excavated. Modern refuse, including disarticulated building materials, automotive parts, scrap metal, etc. observed in fill during excavations along the southern edge of the proposed building (Figure 5). Two (2) refined white earthenware sherds were observed in fill just north of the 20th -century building remnants. These finds were not collected; no other features or artifacts were observed.

Monitoring is anticipated to resume on May 4, 2020. However, shoring and pylon installation is expected to begin shortly thereafter, and monitoring will be suspended pending completion of this work and resumption of excavations.

If you have any comments or questions, don't hesitate to contact me directly at bsipe@wetlands.com or at (703)-307-6951.

cc: Brian Keeler, Field Supervisor; Montgomery County DPS
Eric Biskaduros; RW Murray



Figure 1: Vicinity Map

5204 River Road Property

WSSI #MD1375.02 - April 2020





Figure 2: Excavation Profile; View to North



Figure 3: Remains of 20th - Century Building, View to Northeast



Figure 4: Removed Footer, View to Southwest



Figure 5: Rubble and Refuse in Fill; View to East



DATE: June 9, 2020
TO: Patrick Curtis, Inspector; Montgomery County DPS
FROM: Boyd Sipe M.A., RPA
RE: 5204 River Road Property Archeological Monitoring, Week 1

This transmittal documents Week 2 (June 1- June 5) of archeological monitoring at the 5204 River Road Property (± 1.0 acres), Montgomery County, Maryland (Figure 1). Thunderbird Archeology, a division of Wetland Studies and Solutions, Inc. (WSSI) of Gainesville, Virginia provided archeological monitoring services within the project area on June 3, 2020 and June 4, 2020. No new ground disturbance had occurred since the end of Week 1 monitoring.

The height of the pad along the southern edge of the site was adjusted for the installation of shoring along the western edge of the site. Excavation was limited to removal of approximately five (5) of soil below grade on the western side of the pad, sloping up to the current grade on the eastern side of the site. A stratum matching the description of the BC horizon from the Brinklow soil series, reddish yellow micaceous silt loam, was encountered in the southwestern corner of the site. About 60 feet east of the same corner a horizon of dark grayish brown sandy clay loam with 20th century refuse and no visible defined edges was encountered below a stratum similar to the BC horizon but with a higher clay content (Figure 2). Soils 15 feet or more north of the southern edge of the site consisted exclusively of fill and rubble (Figure 3) All monitored excavation was conducted using a grading (flat or smooth-bladed) bucket. Monitored excavation began in the southwestern corner of the building footprint and proceeded east along the southern edge of the footprint.

A decomposing wooden plank, mattress springs and a fragments of an ironstone whiteware coffee cup were observed in dark grayish brown stratum, but not collected. No features were observed.

Monitoring is anticipated to resume by the week of June 22 or 29, 2020, after shoring and pylon installation is complete. If you have any comments or questions, don't hesitate to contact me directly at bsipe@wetlands.com or at (703)-307-6951.

cc: Brian Keeler, Field Supervisor; Montgomery County DPS
Eric Biskaduros; RW Murray



Figure 1: Vicinity Map

5204 River Road Property

WSSI #MD1375.02 - June 2020





Figure 2: Excavation Profile; View to South



Figure 3: Rubble and Fill Soils, View to Northeast



DATE: June 29, 2020
TO: Patrick Curtis, Inspector; Montgomery County DPS
FROM: Boyd Sipe M.A., RPA
RE: 5204 River Road Property Archeological Monitoring, Week 3(June 15- June 19)

This transmittal documents Week 3 (June 15- June 19) of archeological monitoring at the 5204 River Road Property (± 1.0 acres), Montgomery County, Maryland (Figure 1). Thunderbird Archeology, a division of Wetland Studies and Solutions, Inc. (WSSI) of Gainesville, Virginia provided archeological monitoring services within the project area on June 18, 2020 and June 19, 2020. No new ground disturbance had occurred since the end of Week 2 monitoring.

A portion of the south edge of the project area, along the edge of the pad discussed in the previous memo, was excavated to begin installing shoring planks between installed support beams in that area (Figure 2). Excavation did not exceed approximately 4 feet in any area and were generally less than 3 feet at the highest portion of the slope. One or more layers of fill were observed in the profile of the cut as was previously observed during the week ending June 5.

During monitoring, the WSSI archeologist observed all excavation, visually scanned spoil for human remains, funerary artifacts and other historic period artifacts, noted visible soil stratigraphy and documented the work with notes and photographs. No natural strata (i.e. historic period buried ground surfaces) were observed. A dark yellowish-brown soil stratum was observed containing concrete rubble and other modern debris that likely represents infilling or a fill stratum associated with a no longer extant 20th-century building (Figure 3). No excavation took place on June 19; only site cleanup occurred in anticipation of rain over the weekend.

As of June 19, 2020, no human remains, funerary artifacts, grave shaft features, or cultural features associated with the River Road Moses Cemetery have been observed during monitoring.

Monitoring is expected to resume and intensify during the week of June 22 as site work is anticipated in or near the northwestern portion of the project area (i.e. the portion of the project area located adjacent to the land donated to Montgomery County and nearest the historic boundaries of the River Road Moses Cemetery).

If you have any comments or questions, don't hesitate to contact me directly at bsipe@wetlands.com or at (703)-307-6951.

cc: Brian Keeler, Field Supervisor; Montgomery County DPS
Eric Biskaduros; RW Murray



Figure 1: Vicinity Map

5204 River Road Property

WSSI #MD1375.02 - June 2020





Figure 2: Installed Shoring; View to Southeast



Figure 1: Fill Strata, View to Southeast



DATE: June 27, 2020
TO: Patrick Curtis, Inspector; Montgomery County DPS
FROM: Boyd Sipe M.A., RPA
RE: 5204 River Road Property Archeological Monitoring, Week 4 (June 22 – June 27)

This transmittal documents Week 4 (June 22- June 27) of archeological monitoring at the 5204 River Road Property (± 1.0 acres), Montgomery County, Maryland (Figure 1). Thunderbird Archeology, a division of Wetland Studies and Solutions, Inc. (WSSI) of Gainesville, Virginia provided archeological monitoring services within the project area on June 24-27, 2020.

No archaeological monitor was present for pile drilling on June 22-23 of this week in southwest corner of project area; the monitoring archeologist had determined that no artifacts, human remains, or funerary items would be observable during the drilling. No new excavation or drilling was conducted on June 24. An archeological monitor was on site for grout pouring into previously drilled pile location.

An archeological monitor was on site June 25 to observe auger drilling for pile #20 near the eastern edge of the project area. No cultural features, remains or funerary items were observed. An onsite meeting was held to discuss methods and safety.

Two archaeological monitors were on site June 26 to observed auger drilling for pile #19 and to trench along piles previously drilled in northwest corner of project area. The excavated trench, Test Trench 1, measured approximately 4-6 feet wide and reached subsoil at approximately 1.5 feet below current grade at the east end of the trench and approximately 4.5 feet at the west end of the trench. Sub soil presented as a grayish brown silty clay loam mixed with various minerals. The northern edge of the foundations for a previously encountered 20th century dwelling was noted within the trench. The foundation was no longer articulated within the excavated area. No grave features, human remains, or funerary items were encountered.

Additional piles were drilled and excavated on Saturday, June 27. The soil removed from the drill was visually inspected as it was removed. A sample of the augered soils were screened through ¼” mesh to determine the presence or absence of human remains or funerary objects. No human remains or funerary objects were observed. Monitoring of the drilling for the piles was scheduled to continue Monday June 29, 2020.

If you have any comments or questions, don't hesitate to contact me directly at bsipe@wetlands.com or at (703)-307-6951.

cc: Brian Keeler, Field Supervisor; Montgomery County DPS
Eric Biskaduros; RW Murray



Figure 1: Vicinity Map

5204 River Road Property

WSSI #MD1375.02 - June 2020





Figure 2: Installed Shoring; View to Southeast



Figure 1: Fill Strata, View to Southeast