

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850
<http://www.montgomerycountymd.gov/ozah/index.html>
Phone: (240) 777-6660; Fax (240) 777-6665**

CASE NO. CU 16-11 – GARRETT GATEWAY PARTNERS, LLC,

**ORDER IN RESPONSE TO NOVEMBER 19, 2024
FOLLOW-UP SHOW CAUSE HEARING**

Pursuant to the Show Cause Order dated October 18, 2024, the Hearing Examiner held a remote hearing on November 19, 2024 in follow-up to the a remote show cause hearing with the parties on October 17, 2024.

During the November 19, 2024 hearing, the Hearing Examiner heard from Mr. Dean Packard on behalf of Garrett Gateway Partners LLC, and Mr. Josh Kaye on behalf of Planning. The Hearing Examiner asked Mr. Packard about the status of the dates listed on the “site cost work to finish” spreadsheet submitted by Mr. Packard. Mr. Packard explained some work was complete but there were several delays in completing other work due to funding issues. In reviewing the submitted spreadsheet, the Hearing Examiner asked for input from Mr. Packard and Mr. Kaye regarding realistic timing for work listed. The Hearing Examiner edited the spreadsheet and asked Mr. Packard to update the spreadsheet per the discussion. Mr. Kaye expressed concern regarding whether the paving and concrete work could be completed given the timing of the work proposed will coincide with cold weather. Mr. Packard stated he “hoped for warm weather” and the plantings would not occur until February. Mr. Packard noted the following:

1. On 11/26/24 PEPCO will “set the cans” once he pays the \$45,000.
2. On 11/26/24 WSSC will be paid \$22,000.00 allowing the contractor to work.
3. On 12/15/24 a \$400,000 CD will mature and be cashed to fund the rest of the work.

The Hearing Examiner asked Mr. Kaye specifically what would happen if the promised funding failed to come through. Mr. Kaye stated that the \$92,000 MNCPPC bond would be cashed, but that amount would not be enough to cover all the outstanding work at the property. Mr. Packard noted there were two other bonds one for \$45,000 and one for \$52,000 still pending.¹ Mr. Kaye noted that the letter received from Mr. Packard regarding funding did not show “funds available for use” merely that an account existed. Mr. Packard stated that as of December 15, 2024 all the funding will be place to complete the required work per conditions established in the Conditional Use Report and Decision dated December 2, 2016² and the subsequent approved Preliminary Plan.

In response to the testimony provided, the following is hereby **ORDERED**:

1. That, Dean Packard, representative of the Applicant, Garrett Gateway Partners, LLC, update the schedule of construction consistent with the discussion during the November 19, 2024 hearing and send it via email to this Hearing Examiner, Greg Nicols with DPS and Josh Kaye with Planning no later than close of business **Monday, November 25, 2024**, the schedule of construction must also be updated to **identify the contractor/entity hired to complete each item as is currently known..**
2. That, Dean Packard on behalf of Garett Gateway Partners, LLC and representatives of DPS and Planning appear **REMOTELY** via Teams before the Hearing Examiner with Office of Zoning and Administrative Hearings on **December 19, 2024 at 9:30 am** for an update on the progress of work completed.
3. That, the Hearing Examiner will schedule remote hearings approximately every 30 days until she is satisfied that the work completed meets the criteria established by the

¹ It is the Hearing Examiner’s understanding that Stormwater Management and/or Right of Ways hold those bonds.

² The final Report and Decision was administratively modified on October 11, 2019.

above referenced Decision and Preliminary Plan. The next hearing date will be scheduled with the parties at the conclusion of the hearing on December 19, 2024.

4. That, should the Applicant fail to make sufficient progress, the Hearing Examiner reserves the right during any the subsequently scheduled hearings to determine whether CU16-11 should be suspended or revoked

It is so ORDERED, this 20th day of November 2024.



Kathleen E. Byrne
Hearing Examiner

Copies sent via email to:

Dean Packard for Garrett Gateway Partners, LLC
Barbara Jay, Executive Director
Montgomery County Board of Appeals
Robert Kronenberg, Deputy Director, Planning
Mark Beall, Planning
Patrick Butler, Planning
Josh Kaye, Planning
Ehsan Motazed, Division Chief, Zoning & Site Plan Enforcement, DPS
Greg Nichols, Manager, SPES, Zoning & Site Plan Enforcement, DPS
Victor Salazar, Program Manager II, Zoning & Site Plan Enforcement, DPS
Elana Robinson, Assistant County Attorney, Office of the County Attorney
Community members present during the 7/12/24, 10/17/24 and 11/20/24 hearings