



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

CONSENT ITEM
MCPB 03-08-07

MEMORANDUM

DATE: February 23, 2007
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief *RK*
Robert Kronenberg, Acting Supervisor *RK*
Development Review Division
FROM: Elza Hisel-McCoy, Assoc. AIA, LEED-AP *an*
Development Review Division
(301) 495-2115

REVIEW TYPE: Site Plan Amendment
PROJECT NAME: Avalon at Decoverly, Phase 2
CASE #: 82005002B
APPLYING FOR: Approval for site plan amendment for revised building location and setbacks.
REVIEW BASIS: Div. 59-D-3.7 of Montgomery County Zoning Ordinance.

ZONE: O-M
LOCATION: Northeast quadrant, intersection of Diamondback Drive and Decoverly Drive
MASTER PLAN: Shady Grove

APPLICANT: Avalon Bay Communities
FILING DATE: October 23, 2006
HEARING DATE: March 8, 2007



STAFF RECOMMENDATION: Approval of the proposed limited amendment to Site Plan 820050020 and approval of draft Planning Board Resolution for Site Plan 82005002B.

BACKGROUND

The Planning Board approved site plan 820050020 on January 10, 2005, for 196 multifamily rental units on 48.04 acres in the O-M zone. The Board revisited the site plan to address changes to the construction sequence schedule, approving site plan amendment 82005002A on June 27, 2006.

After the project was completed, an inspection uncovered inconsistencies between the as-built multi-family Building 5, and two notations in the approved site plan drawings.

First, the building line showing the required setback from an adjoining lot, Outlot 5, was not correct for Building 5, given the actual constructed height of the building. At the time of site

plan review, the applicant expected the height to be 48 feet. The O-M zone requires a one-foot horizontal setback for every three feet of building height. Thus 48 feet of height yielded a 16-foot building restriction line, which the applicant delineated on the approved site plan. Upon completion, the actual constructed height of Building 5 was 49.35 feet, requiring a building restriction line of 16.45 feet, not 16 feet. It must be noted that the 49.35-foot building height for Building 5 is not in excess of the 50-foot height approved in the original site plan or the 60-foot maximum height allowed by the O-M zone.

Second, the approved site plan for Building 5 noted at two locations the expected actual distance from the building to the lot line. At one location the noted dimension read "32' +/-" and at the other "57' +/-". Both dimensions well exceeded the minimum setback of 16 (or 16.5) feet. In October 2006, a wall check for Building 5 revealed that the actual constructed distances at these locations were 29 feet and 58 feet, respectively. It must also be noted that Building 5 is setback from the lot line further than the 20-foot minimum setback established by the zone (i.e., a 3:1 setback for a maximum allowed building height of 60 feet), as well as the 16-foot (or 16.45-foot) building line.

Site Plan Inspection Staff issued a citation for non-compliance, including a \$1,000 fine which, given the clerical nature of the violations, staff felt was an appropriate amount. The applicant paid the fine on October 17, 2006, and filed a site plan amendment one week later.

None of the other buildings were found to be inconsistent with the approved site plan drawings.

PROPOSED AMENDMENT

The applicant, Avalon Bay Communities, filed site plan amendment application 82005002B on October 23, 2006, including the changes for Building 5. These changes are limited to revising the approved site plan drawings to:

1. reconfigure and relocate Building 5 to reflect the as-built location;
2. reflect the correct location of the building setback lines for Building 5 and, for consistency, the detached garages;
3. remove dimension strings showing proposed distances between buildings and lot lines;
4. revise the cover sheet zoning tabulation, to clarify nomenclature only, under "Building Height" to substitute "Model 3 stories" for "Model 4 stories" and to substitute "Model 4 stories" for "Model 5 stories"; and
5. update the title block to reflect the applicant's current address.

PUBLIC NOTICE

A notice regarding the site plan amendment was sent by the applicant on November 1, 2006, to all parties of record, giving interested parties 15 days to review and comment on the revised plans. Staff received no comment.

STAFF RECOMMENDATION

The proposed amendment is consistent with the provisions of Section 59-D-3.7 of the Montgomery County Zoning Ordinance for site plan amendments. The amendment consists solely of revisions to approved site plan drawings, and does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board for the originally approved site plan, and is in compliance with the previous findings for the location of buildings and structures, conformance to the zoning requirements and compatibility, established by the Commission. Staff recommends **APPROVAL** of the Site Plan Amendment for Avalon at Decoverly, Phase 2, (Site Plan No. 82005002B) for modifications to the approved site plan.

ATTACHMENTS:

- A. Vicinity Map
- B. Draft Planning Board Resolution

ATTACHMENT A: VICINITY MAP FOR SITE PLAN AMENDMENT 82005002B



ATTACHMENT B: PROPOSED RESOLUTION FOR AMENDMENT 82005002B



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

MCPB No. 07-05
Site Plan No. 82005002B
Project Name: Avalon at Decoverly, Phase 2
Hearing Date: March 8, 2007

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on October 23, 2006, Avalon Bay Communities ("Applicant"), filed a site plan amendment application, designated Site Plan No. 82005002B ("Amendment"), for approval of certain modifications to the approved development; and

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated February 23, 2007, setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on March 8, 2007, Staff presented the Amendment to the Planning Board as a consent item for its review and action.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves Site Plan No. 82005002B for Avalon at Decoverly, Phase 2, which Amendment is limited to revising the approved site plan drawings (as reflected in the plans stamped by the M-NCPPC on February 23, 2007) to:

1. reconfigure and relocate Building 5 to reflect the as-built location;
2. reflect the correct location of the building setback lines for Building 5 and, for consistency, the detached garages;
3. remove dimension strings showing proposed distances between buildings and lot lines;
4. revise the cover sheet zoning tabulation, to clarify nomenclature only, under "Building Height" to substitute "Model 3 stories" for "Model 4 stories" and to substitute "Model 4 stories" for "Model 5 stories"; and
5. update the title block to reflect the applicant's current address.

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 Amendment shall be effective as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this Resolution is _____ (which is the date that the 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).

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EHM

APPROVED AS TO LEGAL SUFFICIENCY

TAB
M-NCPPC LEGAL DEPARTMENT

DATE

2/26/07