



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

MCPB

Item # 5 (Revised)

12/10/09



MEMORANDUM

DATE: November 25, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: *NB*
Neil Braunstein (301-495-4532)
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision

APPLYING FOR: Two lots for two one-family detached dwelling units and one outlot

PROJECT NAME: Tischer Property – Parcel 617

CASE #: 120080420

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RC zone

LOCATION: Located in the northwest quadrant of the intersection of Dustin Road and Columbia Pike (US 29).

MASTER PLAN: Fairland

APPLICANT: Rudolf Tischer

ENGINEER: Site Solutions

ATTORNEY: Miller, Miller & Canby

FILING DATE: July 21, 2008

HEARING DATE: December 10, 2009

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two lots for two one-family detached dwelling units and one outlot.
- 2) The applicant must comply with the conditions of approval for the preliminary forest conservation plan (PFCP). The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable. Conditions include:
 - a. The record plat must reflect a Category I easement over all areas of stream valley buffers and forest conservation.
 - b. The applicant must allow the area within the environmental buffer area to naturally regenerate into a forested condition.
 - c. The applicant must provide permanent signs and/or fencing along the boundaries of the conservation easement areas.
 - d. The applicant must remove all existing structures and/or dumped debris as identified on the approved NRI/FSD from the proposed conservation easements.
 - e. The applicant must provide an invasive species management program for the area of invasive species identified on the PFCP, utilizing MNCPPC's *Best Management Practices For Control Of Non-Native Invasives* document as guidance. The program must be implemented for a minimum of two years.
- 3) The applicant must limit impervious surface on the property to no more than ten percent of the property, not including the environmental buffer, in compliance with the requirements of the Patuxent River Primary Management Area (PMA) guidelines.
- 4) The applicant must dedicate and the record plat must show dedication of 40 feet of right-of-way, as measured from the centerline, along the property frontage for Dustin Road.
- 5) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 6) The record plat must have the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the property is developed."
- 7) The record plat must reflect a rural open space easement over all areas of open space shown on the approved preliminary plan. Such open space easement areas must comprise no less than 60% of the subject property.
- 8) The applicant must comply with the conditions of the MCDPS stormwater management approval dated June 16, 2008. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 9) The applicant must comply with the conditions of the MCDPS, Wells and Septic Section approval dated ~~May 12, 2009~~ October 23, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 10) The applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated August 26, 2008. These

conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.

- 11) The applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 12) Before any building permit on proposed Lot 1 is issued, the applicant must make the applicable school facilities payment to MCDPS.
- 13) The record plat must show necessary easements.
- 14) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

SITE DESCRIPTION

The subject property, shown below and in Attachment A, is a 13.2-acre unplatted parcel. The property is located in the northwest quadrant of the intersection of Dustin Road and Columbia Pike (US 29). The zoning on the property is Rural Cluster (RC). The property is developed with a one-family detached dwelling. A shared driveway provides access to the dwelling and two additional off-site dwellings. Surrounding properties are developed with one-family detached dwellings in the RC zone.

The site is located within the Lower Patuxent River watershed. The site contains wetlands and an associated environmental buffer and 3.16 acres of forest. The property is within the Patuxent Management Area transition area, which limits impervious coverage on the property to 10%.



PROJECT DESCRIPTION

The applicant proposes to subdivide the existing parcel into two lots. One new one-family detached dwelling will be constructed on proposed Lot 1 and the existing dwelling will be retained on proposed Lot 2. Proposed Lot 1 will be 5.18 acres in size, and proposed Lot 2 will be 6.35 acres. One 50-foot-wide outlot is also proposed, which can serve as space for up to two pipestems for two potential lots that can be created out of additional property to the north of the subject property. The property is being developed under the standards of the optional cluster method of development, which permits a smaller lot area, lot width, and lot frontage (as compared to standard method development) and requires that at least 60% of the property be retained as rural open space. In compliance with this requirement, four open space easements are proposed, which in combination will provide 7.8 acres of open space, or 60.9% of the site. A 7,800 square foot area will be dedicated for right-of-way for Dustin Road. The proposed and existing residences will be served by private wells and septic systems.

(Attachment B – proposed plan)

ANALYSIS AND FINDINGS

Master Plan Compliance

The Fairland Master Plan designates the area containing the subject property as Area 26. The preliminary plan meets the following recommendations in the Master Plan:

1. Retains RC zoning.
2. Locates the stormwater facilities outside regulatory stream buffers.
3. Provides no more than 10 percent imperviousness.
4. Does not extend sewer service.

As recommended in the Master Plan, the application proposes two lots (both on well and septic) using the RC Cluster zoning option. The plan proposes to use no more than 40% of the total property for residential uses. The remaining 60% will be designated as rural open space. In addition, since the subject property is in the Patuxent Management Area (PMA), the maximum impervious coverage is 10%. This project proposes 8.4% impervious coverage on the whole site.

The Master Plan designates Dustin Road as a rustic road. Features that qualified the road for designation include the densely wooded character of the area alongside the roadway, the historic Water's Gift site, and the road's alignment (a number of horizontal curves). Dustin Road has approximately twenty feet of paved width and no curbs, and a majority of the houses in this area are hidden behind natural screening. This proposal includes no changes to the road.

On May 10, 2007, the Rustic Roads Advisory Committee (RRAC) reviewed an earlier version of this plan with five proposed lots and additional overall acreage, and recommended that all of the future lots on this property share one driveway. The current proposal of two lots with one driveway, which also serves adjacent houses, conforms to the RRAC's recommendation.

Staff finds that the proposed subdivision substantially conforms with the recommendations adopted in the Master Plan.

Public Facilities

Roads and Transportation Facilities

The proposed subdivision does not generate 30 or more vehicle trips during the morning or evening peak hours. Therefore, the application is not subject to Local Area Transportation Review. In addition, the proposed subdivision does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the application is also not subject to Policy Area Mobility Review.

Vehicular and pedestrian access to the proposed lots will be provided by an existing shared driveway from Dustin Road. The driveway was constructed partially off-site, on Maryland State Highway Administration (MDSHA)-owned right-of-way for Columbia Pike (US

29). MDSHA has stated that the driveway may remain in the public right-of-way. No sidewalks exist on Dustin Road, and none are required or proposed. However, the low volume of traffic allows pedestrians to use the roadway safely. Proposed vehicle and pedestrian access for the site will be safe and adequate.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property will be served by private wells and septic systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the property. The application is not within a school moratorium area, but a school facilities payment must be made prior to issuance of any building permit on proposed Lot 1. Electrical and telecommunications services are also available to serve the Property.

Environment

The subject property contains one intermittent stream, a non-tidal wetland, and an in-stream wet pond. An environmental buffer encompasses these features. There is no mapped 100-year floodplain on the property. There are eight specimen trees and seven large trees (≥ 24 inches DBH) on the property. There are a few areas of steep slopes but no highly erodible soils on the property. The property drains to a direct tributary of the Patuxent River and the Rocky Gorge Reservoir. The entire property is located within the Patuxent River Primary Management Area (PMA). The PMA includes the area within 1,320 feet of the Patuxent River mainstream and 660 feet of all tributaries. The land area in the PMA that is not within the environmental buffer is managed as a transition area. The PMA guidelines recommend that the imperviousness within the transition area not exceed ten percent. The plan proposes approximately 8.4% imperviousness within the transition area. This plan is in compliance with the Montgomery County Environmental Guidelines and the Patuxent River PMA Guidelines.

There are approximately 3.16 acres of forest on the property. This forest is comprised of three separate forest stands. The preliminary forest conservation plan proposes to retain all of the forest on-site and all of the significant and specimen trees. There is no forest planting required on the site. The retained forest and the environmental buffer will be protected in a Category I conservation easement. The majority of the environmental buffer is devoid of forest, but the requirements of the conservation easement will allow for this area to naturally regenerate. This establishment of forest cover within the environmental buffer is also consistent with the Patuxent River PMA guidance.

The MCDPS Stormwater Management Section approved the stormwater management concept on June 16, 2008. The stormwater management concept includes water quality control and recharge via nonstructural methods. Channel protection is not required because the one-year post-development peak discharge is less than 2 cubic feet per second.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the RC zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Citizen Correspondence and Issues

The applicant conducted a pre-submission community meeting on March 27, 2008. At the meeting, citizens asked questions about the layout of the proposed subdivision and the placement of proposed dwelling on proposed Lot1. The developer responded to these questions at the meeting. In addition, written notice of the plan submittal and the public hearing dates was given by the applicant and staff. As of the date of this report, no citizen letters have been received.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and comply with the recommendations of the Fairland Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

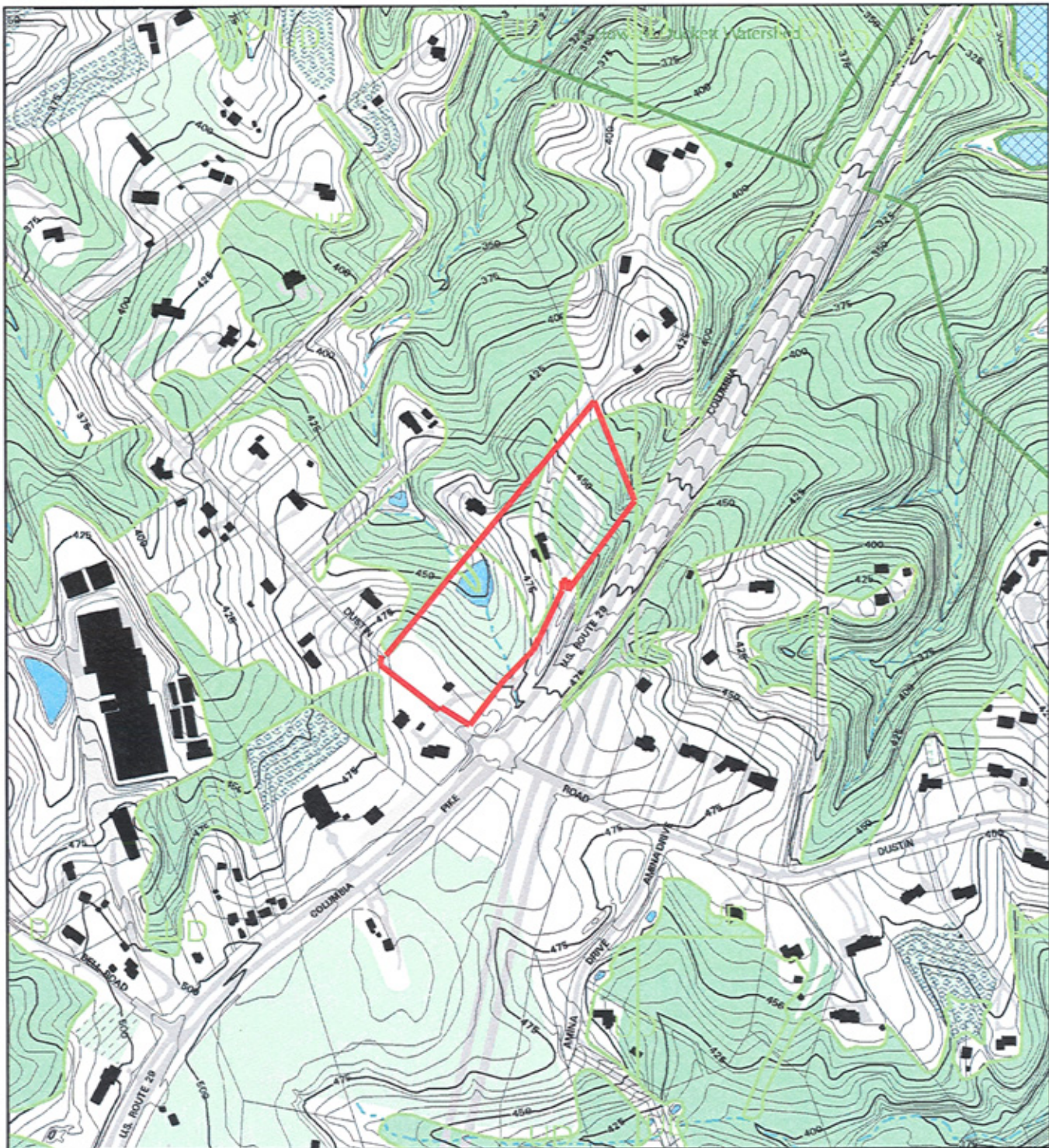
- Attachment A – Vicinity Development Map
- Attachment B – Proposed Development Plan
- Attachment C – Agency Correspondence Referenced in Conditions

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Tischler Property – Parcel 617				
Plan Number: 120080420				
Zoning: RC				
# of Lots: 2				
# of Outlots: 1				
Dev. Type: Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Lot Area	40,000 sq. ft.	5.18 ac. minimum		11/25/09
Lot Width	125 ft.	350 ft. minimum		11/25/09
Lot Frontage	25 ft.	25 ft. minimum		11/25/09
Setbacks				
Front	50 ft. Min.	Must meet minimum ¹		11/25/09
Side	17 ft. Min./35 ft. total	Must meet minimum ¹		11/25/09
Rear	35 ft. Min.	Must meet minimum ¹		11/25/09
Height	50 ft. Max.	May not exceed maximum ¹		11/25/09
Max Resid'l d.u. per Zoning	2	2		11/25/09
Open Space	60% Min.	60.9%		11/25/09
Impervious Area	10% Max.	8.4%		11/25/09
MPDUs	N/a			11/25/09
TDRs	N/a			11/25/09
Site Plan Req'd?	No			11/25/09
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street		Yes		11/25/09
Road dedication and frontage improvements		Yes	Agency letter	8/26/08
Environmental Guidelines		Yes	Staff memo	11/17/09
Forest Conservation		Yes	Staff memo	11/17/09
Master Plan Compliance		Yes	Staff memo	3/26/09
ADEQUATE PUBLIC FACILITIES				
Stormwater Management		Yes	Agency letter	6/16/08
Water and Sewer (WSSC)		N/a	Agency comments	8/25/08
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	8/25/08
Well and Septic		Yes	Agency letter	5/12/09
Local Area Traffic Review		N/a	Staff memo	8/25/08
Policy Area Mobility Review		N/a	Staff memo	8/25/08
Transportation Management Agreement		No	Staff memo	8/25/08
School Cluster in Moratorium?		No		11/25/09
School Facilities Payment		Yes		11/25/09
Fire and Rescue		Yes	Agency letter	10/14/09

¹ As determined by MCDPS at the time of building permit.

TISCHER PROPERTY P-617 (120080420)



Map compiled on July 24, 2008 at 1:28 PM | Site located on base sheet no. 222NE04

NOTICE

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14,400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
2787 Georgia Avenue - Silver Spring, Maryland 20910-2700

Key Map





DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

June 16, 2008

Carla Reid Joyner
Director

Mr. Jeffery Lewis
Site Solutions, Inc.
20410 Observation Drive, Suite 205
Germantown, MD 20876

Re: Stormwater Management **CONCEPT** Request
for Tischer Property
Preliminary Plan #: N/A
SM File #: 233797
Tract Size/Zone: 13.1/RC
Total Concept Area: 13.1ac
Lots/Block: # 1-2
Parcel(s): P617
Watershed: Lower Patuxent

Dear Mr. Lewis:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control and onsite recharge via the use of non structural measures. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following **items** will need to be addressed **during/prior to** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm CN 233797

cc: C. Conlon
S. Federline
SM File # 233797

QN - On Site; Acres: 13.1ac
QL - On Site; Acres: 13.1ac
Recharge is provided



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

MEMORANDUM

October 23, 2009

TO: Cathy Conlon, Development Review,
Maryland National Capital Park and Planning Commission

FROM: Carla Reid, Director
Department of Permitting Services

SUBJECT: Status of Preliminary Plan: # 120080420,

Tischer Property, Lots 1, 2

This is to notify you that the Well & Septic Section of MCDPS approved the plan received in this office on October 19, 2009.

Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.
2. The record plat must show the well easement as shown on this plan.

If you have any questions, contact Gene von Gunten at (240) 777-6319.

cc:
Surveyor
File



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

August 26, 2008

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-20080420
Tischer property, Parcel 617

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated 07/16/08. This plan was reviewed by the Development Review Committee at its meeting on August 25, 2008. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Necessary dedication for Dustin Road and Columbia Pike in accordance with the Master Plan as well as truncation at their intersection.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. Wells and septic systems cannot be located within the right of way nor slope or drainage easements.
4. Dustin Road is classified as a "Rustic Road" under Section 49-78 of the Montgomery County Code. As such, every effort must be made to preserve the existing topographic features, including man-made improvements and vegetation. Since access will be from a road included in the Rustic Roads Program, we will need to inspect the impact of the subdivision on the rustic road. Stake and pavement mark the proposed driveway location(s) for MCDPS field check; contact Ms. Sarah Navid of MCDPS to schedule the field check.
5. Please note MCDOT access policy typically allows no more than four (4) lots to be served by a common driveway.

Division of Traffic Engineering and Operations

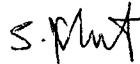
101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
Customer Service 240-777-6000 • Main Office 240-777-2190 • 240-777-6013 TTY • 240-777-2080 FAX
trafficops@montgomerycountymd.gov

Ms. Catherine Conlon
Preliminary Plan No. 1-20080420
Date August 26, 2008
Page 2

6. Record plat to reflect a reciprocal ingress, egress, and public utilities easement to serve the lots accessed by each common driveway.
7. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan. Also homeowners' documents to establish each driveway user's (property owner's) rights & responsibilities with respect to use, maintenance, & liability of the common driveway.
8. Revise the plan as necessary to meet the requirements of the Montgomery County Department of Permitting Services with regard to wells and/or septic systems.
9. Access and improvements along Columbia Pike (MD 29) as required by the Maryland State Highway Administration.
10. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Sam Farhadi, P.E.
Development Review Group
Traffic Engineering and Operations Division

m:/subdivision/farhas01/preliminary plans/ 1-20080420, Tischer Property.doc

Enclosures ()

cc: Rudolf Tischer, Petra Tischer Hartung
Alfred Blumberg, Site Solutions Inc
Lewis R. Schumann, Miller, Miller & Canby
Joseph Y. Cheung; DPS RWPPR
Sarah Navid; DPS RWPPR
Henry Emery; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Gregory Leck, DOT TEO
Corren Giles, MSHA
Preliminary Plan Folder
Preliminary Plans Note Book

