



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

Agenda Date: July 30, 2009
Agenda Item No. 1

July 22, 2009

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Rollin Stanley, Planning Director *RS*

VIA: Rose Krasnow, Chief
Robert Kronenberg, Supervisor *RAK*
Development Review Division

Re: Correction to Resolution for Site Plan No. 820050170
Site Plan Opinion
Tong Subdivision, Lots 1-13, Parcel A-C

Attached please find an edited version of the resolution for Site Plan No. 820050170 (Tong Subdivision), which corrects a discrepancy in the data table relative to front yard setbacks. The resolution was adopted by the Planning Board and signed by the Chairman and mailed out to all parties on May 6, 2005.

The certified site plan, approved August 30, 2006 graphically shows a 15 foot front yard BRL (building restriction line); however, the resolution indicates a 25 foot BRL. Previous plans submitted to staff indicate the graphic 15 foot front and the data table for the plans does not indicate a front BRL at all, rather a 25 foot setback from the boundary of the subdivision. Staff believes there was a mix up in the 25 foot boundary setback and the 15 foot front BRL. Furthermore, as this is a TDR zoned property, the setbacks were established during the site plan review.

Staff is requesting that the Planning Board approve the correction to the resolution so that replacement page may be inserted and mailed out to all parties of record to reflect the modified data table.

CC: Carol Rubin, Associate General Counsel





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

Site Plan No. 820050170
Project Name: Tong Subdivision, Lots 1-13, Parcel A - C
Date of Hearing: February 17, 2005
Adoption of Corrected Opinion: by Consent on July 30, 2009

**DRAFT RESOLUTION
NOT ADOPTED**

CORRECTED OPINION

Action: This Corrected Opinion has been adopted by the Planning Board pursuant to Rule 4.11.4 of the Rules of Procedure for the Montgomery County Planning Board to correct an error in the data table relative to Minimum Building Setbacks.

The original Opinion approved the Staff recommendation subject to conditions on motion of Commissioner Wellington, seconded by Commissioner Bryant with a vote of 5-0. Chairman Berige and Commissioners Robinson, Wellington, Bryant and Purdue, Voting in favor.

The date of the original written opinion is May 6, 2005 (which is the date that the opinion was mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, thirty days from the date of this written opinion. This site plan shall remain valid as provided in Section 59-D-3.8.

INTRODUCTION

On February 17, 2005, Site Plan Review No. 820050170 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Planning Board heard testimony and received evidence submitted in the record on the application.

PROPOSED DEVELOPMENT

The Applicant, Magruder/Reed at Christie Estates, LLC. Is proposing to develop the 9.13-acre site into 13 lots with one-family detached dwelling units, including one existing house that will remain. The Subject Property is split-zoned as an RE-2/TDR (2) and RE-2/TDR (4) site in Olney, Maryland.

A major portion of the Subject Property is encumbered by two (2) stream valley buffers, limiting the area that can be developed to the southeastern and southwestern boundaries of the site. This area backs up to the James Creek subdivision and Christie Estates subdivision; each developed with one-family detached lots that range in size

Approved as to
Legal Sufficiency

[Handwritten signature] 7/24/09

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Estates subdivision; each developed with one-family detached lots that range in size from 8,000 square feet to over 10,000 square feet, and 6,000 – 8,000 square feet, respectively.

THE SUBJECT PROPERTY

The property contains two (2) tributaries to James Creek and their associated stream buffers. The majority of the site is forested and contains numerous specimen and mature trees, with the exception of the southeastern boundary abutting the existing lots in the Christie Estates subdivision. The property contains two (2) existing 1-story brick houses; one of which is located with direct access to Spartan Road in the southeastern corner of the site. The other house and associated sheds are located in the northern part of the site with access to Spartan Road, via a gravel and asphalt drive. Many of the adjacent properties in Christie Estates are fenced at the property line.

The property falls in elevation from Spartan Road and on the southwestern perimeter toward the north to the two (2) tributaries by approximately thirty feet. The existing house and shed in the center of the site are located on a knoll with the existing grades dropping to the two (2) streams. Steep slopes exist to the north, east and west of the house and sheds, and at the base of the streams.

SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Development Review Staff ("Staff") recommended approval, with conditions, in its memorandum dated February 11, 2005 ("Staff Report"). Staff testified at the hearing consistent with the finding and recommendations of the Staff Report.

The Applicant appeared at the hearing, with legal counsel and testified that it agreed with Staff's recommendations and proposed conditions.

At the public hearing, two (2) speakers representing the adjacent communities of James Creek and Christie Estates presented testimony with regard to the following: 1) compatibility of the proposed dwelling units to the existing one-family detached homes; 2) separation of the units; 3) the Applicant's request for a reduced width tertiary road; and preservation of the existing trees on the boundary. Jerry Strasbaugh, representing the James Creek Homeowners Association, also requested that the Planning Board consider reducing the width of the proposed stream buffer on the property to allow the proposed homes to be pulled back further from the existing homes. The Planning Board received testimony from Staff on how the stream buffer was established consistent with the various stream classifications, according to the Forest Conservation regulations and the Forest Conservation Guidelines. A definition of the streams located on the site was also presented at the hearing.

**DRAFT RESOLUTION
NOT ADOPTED**

The Planning Board also received testimony from Staff on the separation of the existing units throughout the community, in addition to the adjacent dwelling units to the subject property. Staff testified that the average depth of the back yards of the existing homes on the Christie Estates side is 25 to 30 feet, consistent with the separation of the proposed dwelling units adjacent to the community. Michael Sullivan, who represented Christie Estates, discussed the width of the modified tertiary road, in relation to the pavement width. Staff testified that the right-of-way for the modified tertiary road is proposed to be reduced from 50 feet to 27.33 feet, however as the Applicant noted, the pavement width will be 26 feet, which is the same as a standard tertiary road. The reduction in the right-of-way only reduces the area available for a sidewalk but does not affect the width of the pavement. No sidewalk is proposed for the side along the stream buffer since that side of the right-of-way will not access any homes or other walkways.

The Applicant testified that his Landscape Architect was coordinating with the adjacent property owners to establish a rear-yard buffer planting plan. A condition was added to the staff recommendations to provide buffer planting that would be acceptable to the adjacent property owners as part of the signature set of site plans.

FINDINGS

Based on all the testimony and evidence presented and the staff report, which is made a part thereof, the Montgomery County Planning Board finds:

1. *The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required.*

An approved development plan or a project plan is not required for the subject site.

2. *The Site Plan meets all the requirements of the RE-2/TDR2 and RE-2/TDR4 Zones as demonstrated in the following Project Data Table:*

PROJECT DATA TABLE (RE-2/TDR-2 and RE-TDR-4 Zone)

Development Standard	Permitted/ Required	Proposed
Min. Tract Area (Ac.):	N/A	9.13
Max. Density of Development (d.u.):		
RE-2/TDR-2 (1.52 ac.)	3	
RE-2/TDR-4 (7.62 ac.)	30	
Total Density Permitted:	33	13
Min. Building Setback (ft.):		
From street	20 N/A	25
Rear yard	15** N/A	25*** *
Side yard	0	5
Min. Lot Area (s.f.):	N/A for SFD	7,626
Min. Green Area (%)	35%	81%
Max. Impervious Area (%/ac.):	Not specified	20% / 1.83 ac.
Max. Building Height (ft.):	Not specified	40
Parking Spaces		
Detached units (2 spaces/ unit)	26	26

~~*Section 59 C 1.394. Development Standards Applicable to the Optional Method of Development using the R 60/MPDU Development Standards.~~

~~**Section 59 C 1.624. Yard Requirements. For a side or rear yard that abuts a lot not developed under the provisions of this section 59 C 1.6, the setback must be equal to that required for the abutting lot, provided that no rear yard is less than 15 feet.~~

*** *Condition 2(a) of the site plan is requiring a 25-foot minimum rear yard setback to address compatibility with the adjacent existing lots.

3. *The Locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings:

The locations of the existing and proposed buildings on the proposed site are adequate, safe, and efficient.

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NOT ADOPTED**

The proposed one-family homes directly relate to the stream valley buffer, which dictates the location of the proposed road, stormwater management facilities, and orientation of the houses. The proposed lot pattern is compatible to the adjacent communities of James Creek and Christie Estates in terms of overall size, depth, and width of the lots. The proposed buildings will incorporate the same 25-foot rear yard setback as the adjacent communities, as conditioned below.

* * * * *

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 _____, seconded by Commissioner _____, with Commissioners _____ (list) voting in favor of the motion, with Commissioner(s) _____ (list) dissenting, Commissioner(s) _____ (list) abstaining, Commissioner(s) _____ (list) being absent or being temporarily absent, at its regular meeting held on Thursday, _____, 200..., in Silver Spring, Maryland.

