



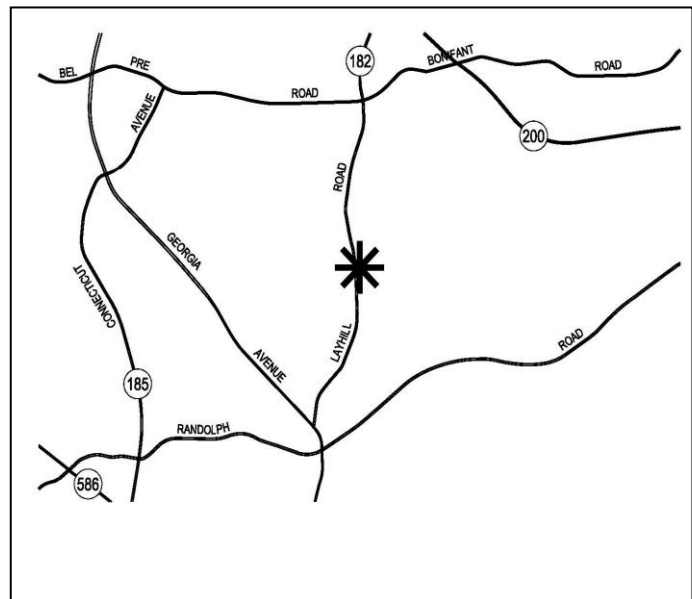
Poplar Run (formerly known as Indian Spring), Limited Site Plan Amendment, 82007002D

- PB Patrick Butler, Senior Planner, Area 2 Division, patrick.butler@montgomeryplanning.org, 301.495.4561
- [KA] Khalid Afzal, Supervisor, Area 2 Division, khalid.afzal@montgomeryplanning.org, 301.495.4650
- [GK] Glenn Kreger, Chief, Area 2 Division, glenn.kreger@montgomeryplanning.org, 301.495.4653

Completed: 10/13/14

Description

- Limited Site Plan Amendment to amend the development program, specifically Condition Nos. 13(b) and 13(c), originally approved with Site Plan No. 820070020, in order to address an issue with respect to timing of the installation of the 8-foot wide hard surface hiker/biker path required in Phases I and II;
- Approximately 308.36 acres zoned R-90 and R-200;
- Located on the east side of Layhill Road, approximately 1,300 feet south of the intersection with Middlevale Lane;
- 1989 *Master Plan for the Communities of Kensington-Wheaton*;
- Applicant: Winchester Homes;
- Filing date: 10/1/14.



Summary

- Staff recommends **approval of the Limited Site Plan Amendment.**
- Although the proposed amendment slightly delays the installation of the 8-foot wide hiker/biker path required in Phases I and II, it will not change the timing of the delivery of the path in its entirety.

SITE PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of the Limited Site Plan Amendment 82007002D, which amends Condition 13(b) and 13(c) of Site Plan 820070020. All previous findings and conditions of approval remain in full force and effect, except as modified herein:

13. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. Development shall include a phasing schedule as follows:

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Local Recreational Facilities
 - i. All Local Recreational Facilities shall be completed prior to the issuance of the 212nd building permit for the units in Phase I. (This number represents 70% of 302 units located in Phase I). The recreation facilities in Phase I include the natural areas and 3 sitting areas. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
 - ii. All Local Recreational Facilities shall be completed prior to the issuance of the 229nd building permit for the units in Phase II. (This number represents 70% of 327 units located in Phase II). The recreation facilities in Phase II include the play lot, natural areas and ~~trails and~~ 7 sitting areas. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
 - iii. All Local Recreational Facilities shall be completed prior to the issuance of the 101st building permit for the units in Phase III. (This number represents 70% of 144 units located in Phase III). The recreation facilities in Phase III include the natural areas and trails and remainder of the pedestrian system. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
- c. Community-Wide Recreational Facilities
 - i. All Community-Wide Recreational Facilities shall be completed and the Applicant must bond for the entire Phase I, II, and III 8-foot-wide hiker/biker path, prior to the issuance of the 436th building permit. (This number represents 70 percent of 629 units located in Phases I and II). Community-wide facilities include the pool, pool house and community center, tot lot, gazebo in the community square, and open play areas, ~~and the Phase I and II portion of the 8-foot-wide hard surface hiker/biker path~~. Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.
 - ii. As soon as practicable, but no later than prior to the issuance of the 650th permit, the 8-foot-wide hard surface hiker/biker path identified in Phases I, II and III shall be completed. In the interim, the Applicant shall place signs identifying the future hiker/biker path approximately every 150 feet along the path and these signs shall remain until the hiker/biker path is fully constructed. The Applicant also shall

include an addendum to the purchase contract providing notice of the existence of the hiker/biker path to the purchasers of those lots abutting the hiker/biker path.

- iii. Community-wide facilities in Phase III, ~~including the remainder of the 8-foot wide hard surface hiker/biker path~~ and the natural surface connections to the Rachel Carson Greenway Trail and necessary bridges or boardwalks, shall be completed prior to the issuance of the 101st building permit in Phase III (this number represents 70% of 144 units located in Phase III). Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.
 - iv. The hard surface path connection associated with the Tivoli Lakes Road connection, starting at Hugo Circle to the first intersecting street in the community (currently Street K), shall be constructed along with the road connection.
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SITE DESCRIPTION

Vicinity

The subject property is located on the east side of Layhill Road, just west of the Northwest Branch Park and north of Randolph Road. It is bounded to the north by the Layhill View community, to the west by the Middlebridge community, and to the south by the Tivoli community. A private driveway enters the site from Layhill Road; Foggy Glen Road adjoins the site to the north; and Tivoli Lake Boulevard enters the site from the south. The property is located within the Kensington-Wheaton Planning Area and surrounded by existing one-family detached neighborhoods developed under the R-200, R-150 and R-90 zones. One-family detached units abut the majority of the property with the exception of a small pocket of townhouses to the south near the Tivoli Lake Boulevard terminus.

Site

The 308-acre site previously contained the Indian Spring Golf Course, which has been replaced with the Poplar Run residential development, currently under construction. A tributary of the Northwest Branch runs in a southeasterly direction along the south side of the property, and the Branch itself runs in a southerly direction along the east side of the property. Stream buffers, floodplains and wetlands have been identified on the property, and the property is subject to Forest Conservation requirements. The subject property is entirely within the Northwest Branch watershed, with streams designated as Use IV, recreational trout waters. The topography of the site is rolling, with some areas of steep slopes along the stream valleys and floodplains. The floodplain covers approximately 46 acres.



Image 1 – Site Aerial

PROJECT DESCRIPTION

Previous Approvals

The Planning Board approved Preliminary Plan No. 120060510 for 773 dwellings on January 4, 2007. The subsequent Site Plan No. 820070020 was approved for 773 dwellings on February 7, 2008. Site Plan No. 82007002A, approved on October 18, 2010, revised various stormwater management facilities and made several minor changes to Poplar Run Drive, the Clubhouse, the recreation area, and updated landscaping, lighting, and decorative paving features. Site Plan Nos. 82007002B and 82007002C approved on March 11, 2014 and October 2, 2014 respectively, allowed minor modifications to the approved Final Forest Conservation Plan.

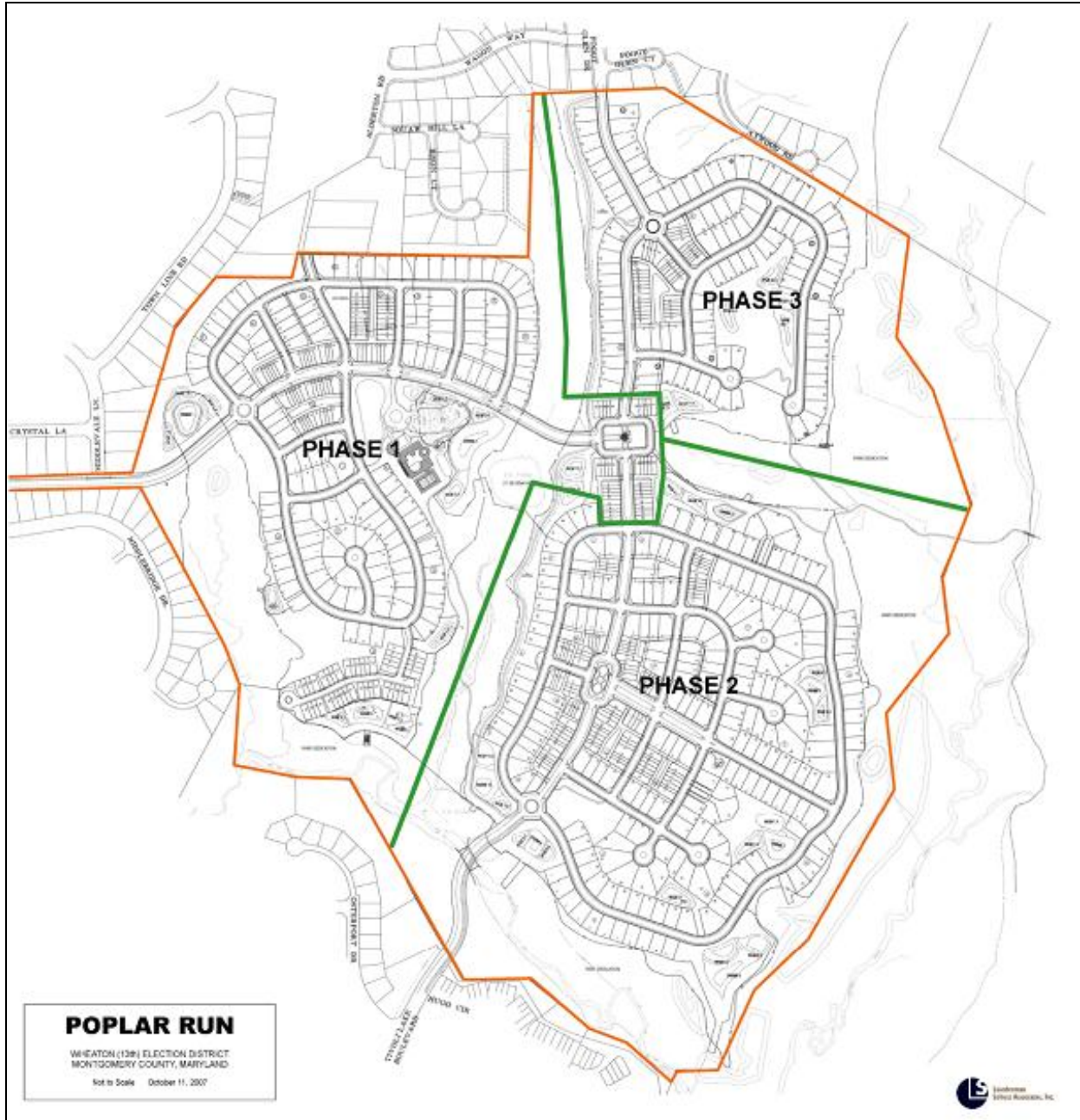


Image 2 – Site Plan

Proposal

The Amendment proposes to modify the development program originally approved with Site Plan No. 820070020 in order to address an issue with respect to the timing of the installation of the 8-foot wide hard surface hiker/biker path required in Phases I and II. The construction and delivery of the path, in its entirety, will not change as a result of this amendment. If approved, the timing will continue to conform to the Preliminary Plan approval. At the time of the original Site Plan approval, the Applicant and Staff attempted to further refine the phasing of the path; however, this condition has become problematic due to necessary staging and grading for adjoining lots will impact the future trail alignment.

The Amendment proposes to modify Site Plan Condition No. 13(b) to correct a reference to a trail. The significant revision is to condition 13(c) which identifies the timing for installation of various community-wide recreational facilities associated with the development. As currently stated, Condition 13(c)(i) requires the following:

All Community-Wide Recreational Facilities shall be completed prior to the issuance of the 436th building permit. (This number represents 70 percent of 629 units located in Phases I and II). Community-wide facilities include the pool, pool house and community center, tot lot, gazebo in the community square, open play areas and the Phase I and II portion of the 8-foot wide hard surface hiker/biker path. Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.

The Applicant has completed virtually all of the community-wide recreational facilities that the Condition requires for Phase I and II of the development, specifically, the swimming pool, pool house, community center; the tot lot; the gazebo; and the open play areas. Many of these facilities were delivered to the community for their use and enjoyment much earlier in the development process than required by the condition of approval. Only the hiker/bike path remains outstanding. While the Applicant intends to deliver the entire hiker/biker path as required, the Applicant has identified various factors that will impede the path's completion in Phases I and II.

As the project has progressed, it has become clear that installing the path in Phases I and II would be impractical, if not impossible. The path runs through an area that is located within the limits of disturbance of a host of unfinished lots within the development, as well as an area that is required to serve as a temporary sediment trap during construction. If the path were to be installed before construction occurs on these lots, it would not be usable by the community in the short term, and may be damaged by on-going construction and need to be rebuilt. The path also would run through the temporary sediment trap, which will be in an unstabilized condition that would not be permitted. The path cannot be constructed until the areas within the limits of disturbance are stabilized and the temporary sediment trap is replaced by permanent stormwater management facilities.

In order to avoid undue delays regarding the completion of Phases I and II, the Applicant requests that the Planning Board modify the Site Plan condition to allow for the completion of the entire path as soon as practicable, but not later than prior to the issuance of the 650th building permit. As part of the revised condition of approval, the Applicant proposes to install signage along the location of the path so that prospective purchasers are aware of the path and are able to visualize the location of the path in relation to their respective lots. The Applicant also is willing to post a bond for the cost of the path, and include an addendum as part of the purchase agreements for those lots abutting the path notifying future purchasers of the path's existence. The proposed amendment would continue to conform to the Preliminary Plan and Site Plan conditions of approval pertaining to the timing of the delivery of the trail.

COMMUNITY OUTREACH

The Applicant has complied with all submittal and noticing requirements, and staff has not received correspondence from any community groups as of the date of this report.

FINDINGS AND RECOMMENDATION

The proposed Limited Site Plan Amendment does not alter the findings and design character of the development in relation to the original approval, and the Site Plan remains compatible with existing and proposed development adjacent to the site. The proposed modifications do not impact the efficiency, adequacy, or safety of the site with respect to vehicular and pedestrian circulation, open space, landscaping, or lighting.

Therefore, Staff recommends approval of Site Plan Amendment No. 82007002D, with the modified conditions listed at the beginning of this report. All other findings and conditions of Site Plan No. 820070020 and subsequent amendments remain in full force and effect.

ATTACHMENT – Applicant’s Justification Statement



ideas that work

Attorneys at Law

3 Bethesda Metro Center, Suite 460
Bethesda, MD 20814-5367

Tel. (301) 986-1300
www.lerchearly.com

Attachment

September 30, 2014

VIA ELECTRONIC DELIVERY

Glenn Kreger, Chief
Khalid Afzal
Patrick Butler
Planning Area 2
Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, MD 20910-3670

**Re: Letter of Explanation
Poplar Run (formerly Indian Spring)
Limited Site Plan Amendment No. 82007002D to Amend Conditions 13(b)
and (c) of Resolution**

Dear Mssrs. Kreger, Afzal and Butler:

On behalf of our client, Winchester Homes (the "Applicant"), please accept this Limited Site Plan Amendment No. 82007002D (the "Amendment") for the Poplar Run development in Silver Spring. The Amendment proposes to modify the development program originally approved with Site Plan No. 820070020 (the "Site Plan"), in order to address an issue with respect to the timing of the installation of the 8-foot wide hard surface hiker/biker path required in Phases I and II. The timing of the delivery of the path, in its entirety, will not change as a result of this amendment and actually may result in a delivery that is sooner in the development process. This letter serves to meet the various requirements contained in the Development Review Procedures Manual for the submission of a limited site plan amendment.

More specifically, the Amendment proposes to modify Site Plan Condition No. 13(c) of the Montgomery County Planning Board's February 20, 2008 Resolution for the Site Plan (the "Condition"), which addresses the timing for installation of various community-wide recreational facilities associated with the development (the Amendment also addresses a reference to a trail in Condition 13(b)(i)). The Condition requires the following:

All Community Wide Recreational Facilities shall be completed prior to the issuance of the 436th building permit. (This number represents 70 percent of the 629 units located in Phases I and II). Community-wide facilities include the pool, pool house and community center, tot lot, gazebo in the community square, open play areas and the phase I and II portion of the 8-foot wide hard surface hiker/biker path. Landscaping and lighting associated with the community wide facilities shall be installed no later than 6 months after the completion of those facilities.

The Applicant has completed virtually all of the community-wide recreational facilities that the Condition requires for Phase I and II of the development – specifically, the swimming pool, pool house and community center, the tot lot, the gazebo and the open play areas, at a cost of nearly \$4,000,000. Many of these facilities were delivered to the community for their use and enjoyment much earlier in the development process than required by the condition of approval. Only the hiker/bike path remains outstanding. While the Applicant has endeavored in good faith to address the hiker/biker path in Phases I and II as required, various factors have emerged as impediments to the path's completion in the earlier phases.

As the project has progressed, it has become clear that installing the path in Phases I and II would be impractical, if not impossible. The path runs through an area that is located within the limits of disturbance of a host of unfinished lots within the development, as well as an area that is required to serve as a temporary sediment trap during construction. Consequently, if the path were to be installed before construction occurs on these lots, it would not be usable by the community in the short term. Temporary fencing would be required to close the path, to ensure protection from potentially unsafe conditions during the period of construction. As previously mentioned, the path also would run through the temporary sediment trap – an unstabilized condition that would not be permitted. The path cannot be constructed until the areas within the limits of disturbance are stabilized and the temporary sediment trap is removed in favor of permanent stormwater management facilities.

The Applicant has been working with the Montgomery County Parks Department since December 2013 on its plans for both the soft surface trail and hard surface path in the project. The Applicant submitted plans for approval in February 2014 and these permits have yet to be fully reviewed and approved. The Parks Department review has been delayed due to the turnover of key Staff members at various stages of the review process.

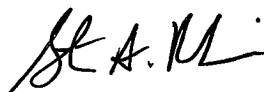
In order to avoid undue delays regarding the completion of Phases I and II, the Applicant respectfully requests that the Planning Board modify the Site Plan condition to allow for the completion of the entire path as soon as practicable, but not later than prior to the issuance of the

650th building permit. As part of the revised condition of approval, the Applicant proposes to install signage along the location of the path so that prospective purchasers are aware of the path and are able to visualize the location of the path in relation to their respective lots. The Applicant also is willing to post a bond for the cost of the path if desired by the Board and include an addendum as part of the purchase agreements for those lots abutting the path notifying future purchasers of the path's existence. (See Exhibit "A" for the proposed condition of approval). This proposed condition conforms to the Preliminary Plan that requires the path to be installed prior to the issuance of the 650th building permit.

The modification will not alter the general intent or objectives of the approved Site Plan nor will it delay the ultimate delivery of the path. The modification will allow for the path to be constructed at a more appropriate time in the development process and to specifically conform to the timing referenced in the Preliminary Plan approval. Again, it is worth noting that all of the other community-wide recreational facilities for Phases I and II have been completed.

We look forward to working with Staff to obtain approval of this Amendment. Winchester Homes has been an excellent corporate citizen in Montgomery County and is very proud of the developments they have produced in the County. Poplar Run is a beautiful community that is serving the County and its residents well. Please do not hesitate to contact us if you have any questions.

Very truly yours,



Steven A. Robins



Patrick L. O'Neil

cc: Rose Krasnow
Michael Conley
Michael Lemon
Alan Barney

Exhibit "A"**Proposed Revised Condition 13 for Poplar Run Site Plan No. 82007002D****13. Development Program**

Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. Development shall include a phasing schedule as follows:

a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.

b. Local Recreational Facilities

All Local Recreational Facilities shall be completed prior to the issuance of the 212nd building permit for the units in Phase I. (This number represents 70% of 302 units located in Phase I). The recreation facilities in Phase I include the natural areas and 3 sitting areas. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.

i. All Local Recreational Facilities shall be completed prior to the issuance of the 229nd building permit for the units in Phase II. (This number represents 70% of 327 units located in Phase II). The recreation facilities in Phase II include the play lot, natural areas and ~~trails and~~ 7 sitting areas. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.

ii. All Local Recreational Facilities shall be completed prior to the issuance of the 101st building permit for the units in Phase III. (This number represents 70% of 144 units located in Phase III). The recreation facilities in Phase III include the natural areas and trails and remainder of the pedestrian system. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.

c. Community-Wide Recreational Facilities

i. All Community-Wide Recreational Facilities shall be completed prior to the issuance of the 436th building permit. (This number represents 70% of 629 units located in Phases I and II). Community-wide facilities include the pool, pool house and community center, tot lot, gazebo in the community square, and open play areas ~~and the Phase I and II portion of the 8-foot wide hard surface hiker/biker path~~. Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.

ii. As soon as practicable, but no later than prior to the issuance of the 650th permit, the 8-foot-wide hard surface hiker/biker path identified in Phases I, II and III shall be completed. In the interim, the Applicant shall place signs identifying the future hiker/biker path approximately every 150 feet along the path and these signs shall remain until the hiker/biker path is fully constructed. The Applicant also shall include an addendum to the purchase contract providing notice of the existence of the hiker/biker path to the purchasers of those lots abutting the hiker/biker path.

iii. Community-wide facilities in Phase III, including the remainder of the 8-foot-wide hard surface hiker/biker path and the natural surface connections to the Rachel Carson Greenway Trail and necessary bridges or boardwalks, shall be completed prior to the issuance of the 101 building permit in Phase III (this number represents 70% of 144 units located in Phase III). Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.

iii. iv. The hard surface path connection associated with the Tivoli Lakes Road connection, starting at Hugo Circle to the first intersecting street in the community (currently Street K), shall be constructed along with the road connection.