



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

MCPB
Item # 18
July 22, 2004



MEMORANDUM

DATE: July 19, 2004

TO: Montgomery County Planning Board

VIA: Richard Hawthorne, Acting Chief *RH*
Catherine Conlon, Acting Supervisor *CC*
Development Review Division

FROM: Richard Weaver, Planning Coordinator (301) 495-4544 *RW*
Dolores M. Kinney, Senior Planner (301) 495-1321 *DK*

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Resubdivision of Existing Lot 48, Deer Park Subdivision

PROJECT NAME: Deer Park

CASE #: 1-01064R

REVIEW BASIS: Chapter 50, Sec. 50-29 (b)(2), Montgomery County Subdivision Regulations

ZONE: R-90

LOCATION: Located at the southeast quadrant of the intersection of Marlow Road and Musgrove Road.

MASTER PLAN: Cloverly

APPLICANT: Southwind Properties, LLC

FILING DATE: April 9, 2001

HEARING DATE: July 22, 2004

STAFF RECOMMENDATION: Approval, pursuant to Section 50-29 (b) (2), Montgomery County Subdivision Regulations, and subject to the following conditions:

- 1) Compliance with the conditions of approval for the preliminary forest conservation plan to provide for off-site reforestation and a tree protection plan for specified trees as stated in the Environmental Planning letter of approval dated July 15, 2004. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 2) Approval under this preliminary plan is limited to 14 single-family dwelling units.
- 3) Record plat to reflect common ingress/egress and utility easements over all shared driveways, if applicable.
- 4) Record Plat to reflect all areas under Homeowners Association ownership and stormwater management areas.
- 5) Satisfy the Policy Area Transportation Review (PATR) component of the Adequate Public Facilities (APF) test by entering into a Traffic Mitigation Agreement (TMA) with the Montgomery County Planning Board (MCPB) and the Department of Public Works and Transportation (DPWT), to make a one-time lump sum payment of \$36,000 to support transit use within the Policy Area.
- 6) Consistent with the 1997 Approved and Adopted Fairland Master Plan, dedicate required right-of-way along Musgrove Road to provide 40 feet of right-of-way from the centerline.
- 7) Dedicate required right-of-way along Marlow Road to provide 30 feet of right-of-way from the centerline.
- 8) Dedicate required right-of-way (50 feet) and construct Penny Lane within the site as closed section tertiary residential street with a cul-de-sac at the end.
- 9) Reconstruct/relocate existing sidewalk along the east side of Musgrove Road between Marlow Road to the north and Hawkshead Terrace to the south, as necessary, to provide a five-foot wide sidewalk and a minimum eight-foot wide tree panel.
- 10) Construct a four-foot wide sidewalk and a minimum eight-foot wide tree panel along Marlow Road, offset two feet from the property line, along the entire property frontage.
- 11) Per requested waiver, construct a four-foot wide sidewalk on only one side of Penny Lane (east side), extending to sidewalk around the cul-de-sac to the driveway for Lot 4.
- 12) Coordinate with DPWT and the Department of Permitting Services (DPS) on design requirements for the proposed Penny Lane, and on the recommended Musgrove Road/Marlow Road sidewalk improvements.
- 13) Coordinate with the Maryland State Highway Administration (SHA) on the ongoing preliminary planning/design studies for the proposed interchange(s) at Fairland Road and Musgrove Road intersection with US 29.
- 14) Compliance with the conditions of approval of the MCDPS stormwater management approval.
- 15) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).
- 16) Landscaping and lighting plan approval required prior to recordation of plat.
- 17) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat

must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed.

- 18) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 19) Other necessary easements.

SITE DESCRIPTION:

The Subject Property, Lot 48 (“Subject Property”), is part of the Deer Park Subdivision, which was originally recorded by plat in 1925. The subject property is located on the south side of Marlow Road at the intersection with Musgrove Road and is among the largest lots in the subdivision, presently improved with a single-family detached dwelling. The property contains 4.5 acres and is zoned R-90.

PROJECT DESCRIPTION:

This is an application to resubdivide the 4.5 acre subject property into 14 residential lots. The proposed lot sizes range from 9,143 square feet to 12, 938 square feet. Access to the proposed resubdivision is via a public cul-de-sac from the existing Marlow Road.

DISCUSSION OF ISSUES

Master Plan Compliance

The Fairland Master Plan does not specifically identify the Subject Property for discussion but does give general guidance and recommendations regarding zoning and land use. The plan recommends that this area maintain the existing zoning as adopted and maintain the residential land use consisting of single-family detached homes. The proposed resubdivision complies with the recommendations adopted in the sector plan in that it is a request for residential development.

Conformance with Section 50-29(b)(2)

A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for

residential use as other lots within the existing block, neighborhood or subdivision.

B. Neighborhood Delineation

In administering the Resubdivision section, the Planning Board must delineate an area within which it conducts its lot character analysis. Below, staff has provided a description of the area analyzed under the resubdivision criteria and has also attached to this staff report an illustration, which delineates the neighborhood.

In defining the appropriate neighborhood for lot character comparison purposes, it has been a long-standing Planning Board practice, facts and circumstances permitting, to limit the neighborhood to include only lots within the same zone and developed under the same standards as the subject property. However, the particular facts of this case render that practice impractical because lots east of the subject property across Marlow Road and to the west of the subject property are developed under a different zone or option. Ordinarily, the lots in the subdivision abutting the subject property to the west would be excluded from the analysis because they were developed under the R-90 MPDU option, a different development option. The property to the east was developed under the R-200 development standard and would, therefore similarly be excluded. As such, following normal practice would produce an inadequate number of lots for comparison purposes and would ignore those lots potentially most impacted by the proposed subdivision.

Therefore, presented with the unusual circumstances of this case, Staff has defined the neighborhood to consist of 37 lots, extending to include those lots on the east side of Marlow Road, west to Hawkshead Terrace, north to Musgrove Road and south to Parcel D to include lots, that are front on the north side of Marlow Place (See attachment). The neighborhood encompasses lots in Block E of the subdivision, with the exception of the lots across Marlow Road, which are part of Block C. The lots include properties fronting on common access, in this case, Marlow Road, and lots on the east side of Hawkshead Terrace which are within Block E, and several of which lots share a boundary line with the subject property. Staff did not include the lots fronting on Deer Ridge Drive and west of Hawkshead Terrace because access to this neighborhood is somewhat removed from the subject property.

Citizen Concerns

There were a number of letters received by the Development Review Division from citizens who reside in the vicinity of the subject site expressing opposition to the proposed resubdivision. The primary concerns identified by the citizens included density, access, increased traffic volumes, limited school capacity, drainage issues and the destruction of the rural character of the area. One property owner was concerned about headlights from vehicle traffic exiting the private street in the proposed resubdivision. Staff was informed by the engineer, that the applicant has agreed with the property owner to help minimize negative impacts of headlights onto this lot from oncoming traffic.

A. Density

The lot sizes in the proposed resubdivision range from 9,055 square feet to 12,938 square feet. Section 50-29(b)(2) of the Subdivision Regulations requires that the proposed lots be of the same character as the existing lots identified in a defined neighborhood. The lots in the existing neighborhood range in size from approximately 6,000 square feet to 22,000 square feet with the exception of one 107,096 square foot lot and one 99,1000 square foot lot. The subject site is zoned R-90 which permits a minimum lot size of 9,000 square feet. The density requirement for the R-90 Zone is 3.6 dwelling units per acre. The density for the proposed resubdivision is 3.11 dwelling units per acre. As such, Staff finds that the lots in the proposed resubdivision meet density and lot size requirements of the Zoning Ordinance.

B. Access, Traffic Volumes and School Capacity

The original preliminary plan showed access to the site from Musgrove Road, which borders the subject site on the northwest. Musgrove Road is an arterial with an 80-foot right-of-way and has a high volume of traffic. In addition, there is less than a 600 foot separation between the Hawkshead Terrace intersection with Musgrove Road on the west of the site and Marlow Road on the east of the site. In an effort to reduce the number of intersections at this location, it is recommended the Department of Public Works and Transportation (DPWT) to limit access from Musgrove Road by use of private roads. As such, access to the subject site will be via a proposed private road from Marlow Road.

The applicant is entering into a Traffic Mitigation Agreement (TMA) with the Montgomery County Planning Board (MCPB) and the Department of Public Works and Transportation (DPWT) to make a one-time lump sum payment of \$36,000 to support transit use within the Policy Area and satisfy the Policy Area Transportation Review (PATR) component of the Adequate Public Facilities (APF) test for the Deer Park Subdivision under the FY 2004 Annual Growth Policy (AGP) Ceiling Flexibility. Also, the FY 2004 AGP identified no issues regarding school capacity.

C. Drainage Issues

The plan proposes storm drainage measures to ensure no additional run-off from the subject site.

D. Rural Character Issue

The proposed resubdivision will be developed under the R-90 Zone and will provide an appropriate transition from the lower density R-200 properties to the east to the higher density R-90/MPDU and R-90/TDR properties to the west of the subject site.

ANALYSIS

Comparison of the Character of Proposed Lots to Existing

Determinations regarding resubdivision applications are subject to Section 50-29(b)(2) of the Subdivision Regulations. The application must demonstrate a high correlation in characteristics between the characteristics of the proposed lot and the existing lots in the delineated neighborhood. Specifically, these characteristics are shape, size, alignment, width, frontage, area and suitability for residential use. Staff concludes that the proposed resubdivision complies with the area, size, frontage, alignment, width, and shape and suitability criteria of Section 50-29(b) (2). As set forth below, the attached tabular summary supports this conclusion:

Area: In a neighborhood of 37 lots, the existing lot areas range from 1,925 to 9,760, with the exception of two lots, which are significantly larger. Lot 133 in Block E is 25,000 square feet and Lot 1 in Block E is 74,000 square feet. the proposed lots range from 2,488 to 5,485. **The proposed lots fall within the middle of the range for lot areas and because of the high correlation, staff finds they are of the same character with respect to area, as the existing lots in the neighborhood.**

Lot Size: The neighborhood consists of 37 lots, which range in size from 6,000 square feet to 22,822 square feet with the exception of two lots, which are significantly larger. Lot 133 in Block E is 99,100 square feet and Lot 1 in Block E is 107,096 square feet. The proposed lot sizes range from 9,055 square feet to 12,938 square feet, which is in the middle of the range for lot sizes for the neighborhood. **Therefore, having exhibited a high correlation, the proposed lots will be of the same character with regard to size as the other lots in the neighborhood.**

Alignment: There are two (2) pipestem lots, four (4) radial lots, five (5) corner lots and twenty-six (26) perpendicular lots. **The proposed resubdivision will create three (3) perpendicular lots, eight (8) radial lots and three (3) corner lots which are of the same character with the existing and have a high correlation with regard to alignment with the other lots in the neighborhood.**

Lot Frontage: The lot frontages in the existing neighborhood range from 25 feet to 302 feet. The proposed resubdivision will have lots with frontages ranging from 32 feet to 148 feet. **Therefore, having a high correlation, the proposed lots will be of the same character as the other lots in the neighborhood with respect to lot frontage.**

Shape: The existing neighborhood consists of seven (7) irregular lots, 23 rectangular lots, five (5) corner lots, and two (2) pipestem lots. The proposed resubdivision creates ten (10) irregular lots, three (3) corner lots, and one (1) rectangular lot. It is typical to have irregular shaped lots on a cul-de-sac.

Therefore, the shapes of the lots in the proposed resubdivision will be of the same character, having exhibited a high correlation with the existing lots in the neighborhood with respect to shape.

Width: The neighborhood consists of lots which range from 60 feet to 240 feet. The proposed lots range in width from 75 feet to 105 feet. **The proposed lots will be of the same character and have a high correlation with the existing lots in the neighborhood with respect to width.**

Suitability for Residential Use: The proposed lots in the neighborhood are zoned residential and are suitable for residential use.

CONCLUSION:

Section 50-29 (b) (2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. Staff finds that the lots in the proposed resubdivision is of the same character and have a high correlation with the existing lots in the neighborhood with respect to the seven (7) resubdivision criteria and complies with Section 50-29(b)(2) of the Subdivision Regulations. As such, Staff recommends approval of the preliminary plan.

Attachments

- Attachment 1 Vicinity Development Map
- Attachment 2 Neighborhood Delineation Map
- Attachment 3 Proposed Development Plan
- Attachment 4 Tabular Summary
- Attachment 5 Correspondence