M-NCPPC

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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Silver Spring, Maryland 20910-3760
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Date Mailed: JAN 20 2005

Action: Approved Staff Recommendation
Motion of Commissioner Bryant, seconded by Commissioner Wellington, with a vote of 5-0.
Commissioners Berlage, Perdue, Bryant, Robinson and Wellington voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05001
NAME OF PLAN: Fairland View

The date of this written opinion is JAN 20 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, as provided in the Maryland Rules of Court.

On July 1, 2004, Winchester Homes submitted an application for the approval of a preliminary plan of subdivision of property in the R-60 zone. The application proposed to create 73 lots on 12.08 acres of land. The application was designated Preliminary Plan 1-05001. On October 28, 2004 Preliminary Plan 1-05001 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.[1]

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application;

[1] Commissioner Wellington disclosed, at the beginning of the hearing, that her husband works for the law firm of Steptoe and Johnson, which represents the Sierra Club, on a *pro bono* basis, on matters related to the Intercounty Connector (ICC). Her husband is not personally involved in the representation. Ms. Wellington also noted for the record that, given her longstanding views on the ICC, that she can render objective and independent judgment in the public interest on matters involving the ICC.

all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action following the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

I. Background

On Thursday, May 20, 2004, the Planning Board considered pre-preliminary plan application No. 7-04059 for the same subject property (Fairland View). This plan was presented to the Planning Board as a non-binding pre-preliminary plan. The Board considered testimony from the staff, applicant and citizens. Staff sought direction from the Board regarding the applicant's request that the project be developed as 100 townhomes, pursuant to section 59-C-1.621 of the Zoning Ordinance. This finding is based on the application proving that it provides an environmental and compatibility benefit over what could be achieved with 60% townhomes and 40% single family detached.

Environmental Planning supported the plan as shown indicating that it provided a tighter clustering of lots away from the existing road network and the proposed Inter County Connector (ICC) right-of-way. The plan provided for a 50 ft. wide strip along the northern boundary of the site that can be used to accommodate a berm and dense landscaping to buffer the effects of the ICC. Staff believed that these benefits could not be achieved with a mix including single family detached homes. Staff also supported the use of 100% townhomes to provide compatibility with the adjacent townhome subdivision. The Board generally agreed with the findings of staff, but elected to make this finding at the time of preliminary plan.

The issue of parking was raised by residents in the adjacent townhouse community who cited concerns about the potential for loss of parking along Stravinsky Drive to accommodate traffic flow. The Board felt that additional visitor parking should be designed into the proposal to counter any loss of parking on Stravinsky Drive.

The Planning Board did not object to the submission of a preliminary plan and advised the applicant to address parking issues.

The applicant appeared and testified at the October 28, 2004 hearing, represented by counsel, and agreed to staff's recommendation approval and conditions of approval, with one request to change Condition No. 2, which change was agreed-to by staff and is reflected below. No speakers testified in opposition to the plan at the hearing.

II. SITE DESCRIPTION

This 12.08-acre parcel is located in the northeast quadrant of the intersection Colesville Road and Fairland Road. The approved Natural Resource Inventory/Forest Stand Delineation indicates that the property is mostly open field with two existing houses with associated buildings. There are no streams, wetlands or steep slopes on this property.

The site is directly impacted by the master plan alignment for the Intercounty Connector (ICC). The master planned U.S.29/Fairland Road interchange is to the southwest corner of the property.

The plan shows an open strip on the northern boundary that is to be used for screening and a potential berm to visually screen the units from any ICC improvements.

III. PROJECT DESCRIPTION

The Preliminary Plan proposes seventy-three single-family attached residential dwelling units to be situated on the middle and southern portion of the property. The subdivision will be accessed by an extension of Stravinsky Drive. Proper termination of Stravinsky Drive has been addressed by MCDPWT in their memorandum. Access to Fairland Road and U.S. 29 has been denied by reviewing agencies. A private street network provides internal circulation to the individual units. Site plan staff and DPS will further review details of the site circulation and parking at the time of site plan.

IV. PARKING

At the Pre-Preliminary Plan hearing, the Planning Board heard testimony from the adjacent subdivision regarding their contention that parking for the application was inadequate. The residents were also responding to a statement that MCDPWT may need to restrict parking on one side of Stravinsky Drive to accommodate two way traffic movement. This would seemingly impact the existing neighborhood more so than the proposed subdivision since parking on Stravinsky Drive is more accessible to the existing community.

A final decision on the need to restrict the parking by MCDPWT has not been made, however, the applicant has provided MCDPWT with a requested study that indicates 18 spaces may be lost on Stravinsky if parking is restricted. The applicant has attempted to address this and respond to the Planning Board's concerns about visitor parking internal to the site by increasing parking by 20 visitor spaces. According to staff this is an additional 58 parking spaces, and according to the applicant 57 more spaces than the Zoning Ordinance required.

The parking requirements for this project are 2 spaces per unit. The Pre-Preliminary Plan was at a rate of 2.48 spaces per unit, above the minimum and consistent with other approvals. By providing an additional 20 spaces, the application is now at 2.8 spaces per unit. The 20 space increase is also in excess of the potential loss of 18 spaces on Stravinsky Drive if enforced by MCDPWT at a later date. Staff

believes that the additional parking spaces should be sufficient for the proposed subdivision.

V. TRANSPORTATION

A. Proposed Intercounty Connector

SHA is currently developing detailed mapping as part of its preparation of the Draft Environmental Impact Statement (DEIS) for the proposed ICC (a limited-access east-west highway intended to link areas between I-270 and I-95/US 1, through central/eastern Montgomery County and western Prince George's County).

The ICC planning process has concurrence on two alternative alignments, selected through the Alternatives Retained for Detailed Study (ARDS) process, called Corridor 1 and Corridor 2. Corridor 1 is the southern alignment that generally follows the alignment incorporated in the area master plans for the ICC, and Corridor 2 is the alignment to the north that is not represented in any area master plans. Of the above two alternative roadway alignments, based on the most current information provided by the SHA, the proposed Corridor 1 alignment interchange with Columbia Pike (US 29) would physically impact the proposed Fairland View development as shown on within the staff report presented at the public hearing.

B. Master Plan Roadways and Pedestrian/Bikeway Facilities

The 1997 Approved and Adopted *Fairland Master Plan* describes the nearby master-planned roadways, pedestrian and bikeway facilities as follows:

1. Columbia Pike (US 29), to the west of the property, as a six-lane divided Major Highway (CM-10) between Northwest Branch to the southwest and MD 198 to the northeast. A minimum right-of-way width of 100 to 200 feet is recommended for this section of US 29. The master plan also recommends a commuter bikeway for US 29.

2. Fairland Road, to the south of the property, as a two- to four-lane divided, east-west Arterial (A-75) between Paint Branch to the west and Prince George's County Line to the east, with a minimum 80-foot right-of-way, and sidewalks. A Class I bikeway (PB-50) is recommended in the master plan for Fairland Road from Old Columbia Pike to Prince George's County Line along the south side of the roadway.

3. Musgrove Road, between Old Columbia Pike (P-25b) to the southwest and Fairland Road (A-75) to the northeast, is a two-lane Arterial (A-100), with a minimum right-of-way width of 80 feet. The Master Plan also recommends sidewalks and a Class II/III bikeway (PB-43) along Musgrove Road/US 29 between Cherry Hill Road and Fairland Road. Additionally, Marlow Road to the east of Musgrove Road to Galway Elementary School is recommended as a Class III bikeway (PB-56) in the Fairland Master Plan.

4. Brahms Avenue, between Schubert Drive to the north and Fairland Road to the south, as a two-lane Primary (P-33), with a minimum right-of-way width of 70 feet.

5. Intercounty Connector (ICC), as a Freeway (F-9) within the *Fairland Master Plan* area, to the north of the property.

C. Nearby Transportation Improvement Projects

The Maryland State Highway Administration (SHA) Consolidated Transportation Program (CTP), and the Montgomery County Department of Public Works and Transportation (DPWT) Capital Improvement Program (CIP) includes the following nearby projects:

1. Fairland Road: This DPWT project involves reconstruction of Fairland Road from US 29 to Prince George's County line, including widening to 3 lanes, a sidewalk on the north side of the road, a Class I bikeway on the south side of the road, etc. The project is in final design and is anticipated to start construction in late 2006.

2. US 29/Briggs Chaney Road Interchange: The above interchange is currently under construction by SHA and is approximately 14% complete as of September 2004. The estimated completion date for the project is October 2007.

3. US 29/Musgrove Road/Fairland Road Interchange: SHA is currently in the process of preparing preliminary design plans for the interchange. The project is fully funded for Preliminary Engineering and has funding for partial right-of-way.

4. The Intercounty Connector (ICC): Planning studies for this SHA project are currently ongoing.

D. Local Area Transportation Review

A traffic study was required for the subject Preliminary Plan per the *Local Area Transportation Review (LATR) Guidelines* since the subject development was estimated to generate 30 or more peak-hour trips during the typical weekday morning (6:30 – 9:30 a.m.) and evening (4:00 – 7:00 p.m.) peak periods.

The consultant for the applicant submitted a traffic study (dated June 11, 2004) that determined the traffic-related impacts of 74 townhouses on the nearby roadway intersections during weekday morning and evening peak periods. Staff review of the above traffic study indicated that the study complied with the requirements of the *LATR Guidelines* and the traffic study scope provided by the staff.

The proposed Fairland View development was estimated to generate approximately 36 peak-hour trips during the weekday morning peak-period, and

approximately 61 peak-hour trips during the weekday evening peak-period. A summary of the above is provided in Table 1.

TABLE 1
SUMMARY OF SITE TRIP GENERATION
FAIRLAND VIEW – 74 TOWNHOUSES

Time Period	Trip Generation		
	In	Out	Total
Weekday Morning Peak-Hour	6	30	36
Weekday Evening Peak-Hour	41	20	61

Note: Based on M-NCPPC trip generation rates for townhouses.

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the study intersections for the weekday morning and evening peak hours within the respective peak periods from the traffic study is presented in Table 2.

TABLE 2
SUMMARY OF CAPACITY CALCULATIONS (CLV)
FAIRLAND VIEW – 74 TOWNHOUSES

Intersection	Traffic Conditions							
	Existing		Background		Total		Total w/Applicant Funded Improve-ments	
	AM	PM	AM	PM	AM	PM	AM	PM
US 29/Fairland Rd	1,541	1,485	1,560	1,491	1,569	1,504	1,544	1,459
Fairland Rd/Brahms Ave/Verizon Access[1]	823	727	832	733	5.1	6.5	--	--
Fairland Rd/Musgrove Rd/Marlow Farm Rd[1]	765	605	774	620	9.0	7.9	--	--
Schubert Dr/Stravinsky Dr/Access Dr	117	117	117	117	153	179	--	--
Schubert Dr/Brahms Ave	256	275	256	275	291	331	--	--

Source: Fairland View Traffic Study. The Traffic Group, Inc. June 11, 2004.
FY 2005 Congestion Standard for Fairland/White Oak Policy Area: 1,500

[1] Background and Total Traffic Conditions reflect proposed DPWT improvements along Fairland Road. Total traffic conditions reflect operation of the intersection with a roundabout/traffic circle.

As shown in Table 2, under Total traffic conditions, CLV values at the study intersections were either below the FY 2005 Fairland/White Oak congestion standard of 1,500, or with an applicant identified roadway improvement (lane designation changes to the eastbound Fairland Road approach to US 29) did not exceed the respective CLV under Background traffic conditions. It is noted that the above mitigation improvement is being utilized by another pending Development Plan Amendment (DPA-04-2), and is acceptable to both the M-NCPPC staff and Maryland State Highway Administration (SHA) (see Attachment 2).

Per Section III.A of the *LATR Guidelines* (see Attachment 3), "An intersection improvement may be used by two or more developments if construction of the improvement has not been completed and open to the public. In order to be considered, the program or improvement must provide sufficient capacity to:

- result in a calculated CLV in the total traffic condition that is less than the congestion standard for that policy area, or

- mitigate the traffic impact if the calculated CLV in the total traffic condition exceeds the intersection congestion standard for the applicable policy area. Mitigation is achieved when the CLV in the total traffic condition that includes traffic from each contributing development *with* the improvement is equal to or less than the CLV in the background traffic condition without the improvement.

Based on the review of the analysis presented in the traffic study, staff concludes that the proposed improvement to the eastbound Fairland Road approach to its intersection with US 29 will create adequate capacity to accommodate traffic associated with both the subject development as well as the pending DPA.

Staff has also reviewed a parking survey/parking demand analysis presented by the applicant (dated August 30, 2004), performed at the request of DPWT staff. Based on the findings contained in the study, staff support DPWT recommended parking restriction to one side of Stravinsky Drive.

VI. ENVIRONMENT

As stated in the Site Description, the site is generally open field with no associated streams, wetlands, or steep slopes. The focus on the environmental review was related to noise impacts from the local road network, both existing and proposed. Conditions No. 1, 2 and 3 address the need to screen the proposed units from the

existing and proposed roads and to provide the necessary noise studies that will project the noise impact to the proposed units. Adjustments to the unit layout and/or noise attenuation may be recommended as part of the site plan review.

VII. FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies[2]; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

a) The Preliminary Plan No. 1-05001 substantially conforms to the Fairland Master Plan.

b) Public facilities will be adequate to support and service the area of the proposed subdivision.

c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.

d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.

e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.

f) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

VIII. CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-05001 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-05001, subject to the following conditions:

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[2] The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

1) Compliance with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plats or MCDPS issuance of sediment and erosion control permits. Conditions include but are not limited to:

    a. Detailed afforestation planting plan for the earth berm to create a dense visual screen.

2) At site plan, applicant to provide a noise study prepared by a professional engineer with competency in acoustical analysis to demonstrate that proposed units will attenuate projected exterior noise levels to an interior level not to exceed 45 dBA, Ldn. The study must use projected traffic noise levels for the ICC, Rte. 29, and Fairland Road, if the projected traffic noise levels are available.

3) Mitigation measures for projected traffic noise impacts from the ICC, Rte. 29, and Fairland Road to be addressed at the site plan stage. Noise mitigation measures would include, but are not limited to, measures to reduce interior noise levels recommended in the noise study and changes in the configuration and types of some townhouse units to reduce projected outdoor noise levels to parts of the subdivision.

4) Place in reservation the area on Attachment 1 of the Transportation Planning memorandum (attached), dated March 17, 2004 ("Reservation Area") until the earlier of (a) September 1, 2005; or (b) a final Record of Decision is issued by the FHWA, and that Record of Decision does not include the Reservation Area, or any portions thereof, within the final Intercounty Connector (ICC) alignment.

5) If FHWA issues a final Record of Decision that includes the Reservation Area, and the applicant has not submitted a phased site plan that excludes the full Reservation Area, the applicant shall submit a site plan that locates all dwelling units and related infrastructure (e.g., roads, public areas, etc.) outside of the Reservation Area.

6) Limit any future development as part of this subject Preliminary Plan on the site to 73 townhouse units.

7) Dedicate, and show on final record plat, adequate right-of-way along Fairland Road to provide 50 feet of right-of-way from the roadway centerline.

8) Construct Stravinsky Drive extension and its terminus within the property as a 60-foot wide secondary residential street with sidewalks, and with proper termination (with a cul-de-sac).

9) Coordinate with the Montgomery County Department of Public Works and Transportation (DPWT), and the Department of Permitting Services on design requirements for the proposed extension and termination of Stravinsky Drive, DPWT

recommended parking restrictions along Stravinsky Drive, and on-site/off-site sidewalk, parking requirements.

10) Record plat to show delineation of a Category I Conservation Easement over the areas of forest conservation.

11) Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.

12) Compliance with the conditions of approval of the MCDPS stormwater management approval letter dated, July 6, 2004.

13) Compliance with conditions of MCDPWT letter dated, October 21, 2004, (except that the review of the detailed design as specified in condition #2 should be applied at site plan) unless otherwise amended.

14) No clearing, grading or recording of plats prior to site plan.

15) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.

16) Final number of MPDUs to be determined at site plan.

17) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff.

18) 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.

19) Other necessary easements.

MR 10/20/04

Approved as to legal sufficiency
M-NCPPC General Counsel

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

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CERTIFICATION OF BOARD VOTE ADOPTING OPINON

At its regular meeting, held on **Thursday January 13, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of **Commissioner Wellington, seconded by Commissioner Perdue, with Chairman Berlage and Commissioners Perdue and Wellington** voting in favor of the motion, ADOPTED the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan 1-05001, Fairland View.**

Certification As To Vote of Adoption
M. Clara Moise, Technical Writer