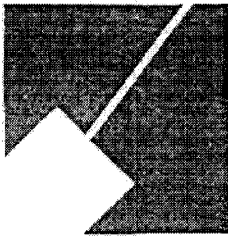


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Date Mailed:

JAN 26 2005

Action: ~~Approved Staff~~
Recommendation

Motion of Commissioner Robinson,
seconded by Commissioner Bryant,
with a vote of 5-0.

Commissioners Berlage, Perdue,
Bryant, Wellington and Robinson voting
in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-04096

NAME OF PLAN: The Towns of Dogwood

The date of this written opinion is **JAN 26 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, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

On 6/10/04, Albany Fernandes submitted an application for the approval of a preliminary plan of subdivision of property in the RT-8 zone. The application proposed to create 30 lots on 5.0 acres of land. The application was designated Preliminary Plan 1-04096. On 10/21/04, Preliminary Plan 1-04096 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.

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; 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.

Staff testified that the application met all of the requirements of the Subdivision Regulations, as conditioned below, and recommended that the Board approve the plan.

The Applicant was represented by legal counsel at the public hearing, and made several comments (but requested no changes to) staff's proposed conditions of approval. First, the Applicant stated that it believed the Transportation Management Agreement referenced in the Transportation Planning staff report, according to the Applicant, was essentially finalized and no longer a draft. Second, with respect to the Department of Public Works and Transportation's recommendation that the site distance be a minimum of 200', that road is not yet under construction and they cannot verify that distance until the construction occurs.

There is no evidence in the record in opposition to the staff's recommendation, nor was any testimony or evidence presented during the course of the public hearing in opposition to any of staff's recommendations or to the conditions of approval.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies; 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. 1-04096 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.

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 conditions of approval for the application.

- 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.

CONDITIONS OF APPROVAL

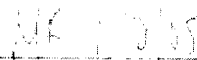
Finding Preliminary Plan No. 1-04096 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-04096, subject to the following conditions:

- 1) Approval under this preliminary plan limited to 30 single family attached dwelling units.
- 2) 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.
- 3) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff.
- 4) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 5) Record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation.
- 6) Record plat to reflect common ingress/egress and utility easements over all shared ~~12 years~~ drive ways.
- 7) Consistent with the 1997 Approved and Adopted Fairland Master Plan dedicate adequate right-of-way along Dogwood Drive to provide 35 feet of right-of-way from the roadway centerline.
- 8) Applicant to upgrade the eastern half of Dogwood Drive along the property frontage (from its intersection with Shady Knoll Drive to the southern corner of the property) as a 24-foot wide open-section roadway, with a 5-foot wide sidewalk, and a tree panel.
- 9) Applicant to extend the Condition #12 sidewalk/tree panel to the north from the property boundary to the entrance to Alpine Forest (at Shady Knoll Drive).
- 10) Applicant to construct sidewalk ramps/crosswalks provided as part of this Preliminary Plan to standards recommended by the Americans with Disability Act (ADA) Best Practices.
- 11) Compliance with conditions of MCDPWT letter dated October 14, 2004, unless otherwise amended.

- 12) 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.
- 13) Record Plat to reflect all areas under Homeowners Association ownership and stormwater management areas.
- 14) 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.
- 15) Compliance with the conditions of approval of the MCDPS stormwater management approval dated July 8, 2004.
- 16) Satisfy the PATR component of the APF test by entering into a TMA with MCPB and DPWT to sponsor, develop, implement, operate and monitor a trip reduction program for
- 17) Other necessary easements driveways.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

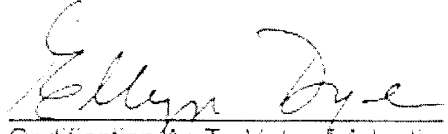
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]



Approved to: [Name of official]
M-NORPC Office of Planning Counsel

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday, January 20, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of Commissioner Bryant, seconded by Commissioner Wellington, with Commissioners Berlage, Perdue, Bryant, Robinson, 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 No. 1-04096, The Towns of Dogwood.



Certification As To Vote of Adoption
Technical Writer