

LINOWES
AND | **BLOCHER LLP**
ATTORNEYS AT LAW

May 10, 2005

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Mr. Derick P. Berlage, Chairman
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan No. 1-04108;
Request for Approval of Increased Percentage of Attached Units

Dear Chairman Berlage and Members of the Planning Board:

On behalf of our client, Winchester Homes, Inc. ("Winchester"), contract purchaser of the Indian Spring Country Club property (the "Property"), the purpose of this letter is to respectfully request your approval of the inclusion of 61% one-family attached dwelling units in the above-referenced preliminary plan application (the "Preliminary Plan").

Pursuant to Section 59-C-1.62, footnote 1, of the Montgomery County Code, the standard maximum percentage of one-family attached dwelling units in a R-200 subdivision is 50%. However, this section also provides that, subject to a finding of compatibility with adjacent development, "the Planning Board may approve a development in which up to 100 percent of the total number of units are one-family attached dwelling units, one-family semidetached dwelling units, or townhouses upon a finding that a (1) proposed development is more desirable from an environmental perspective than development that would result from adherence to these percentage limits, or (2) limits on development at that site would not allow the applicant to achieve MPDUs under Chapter 25A on-site." We believe the Preliminary Plan before you meets both of these criteria for approval and that an increase in the standard maximum percentage in this case will achieve the same level, if not an increased level, of compatibility with adjacent development as would exist without the increased percentage.

First, with regard to the environmental basis for approval of an increased percentage of attached units, the proposed project would drastically improve the environmental conditions on the Property. Currently, the Property has 72.4 acres of encroachment into stream valley buffers, which will be reduced to 32.7 under the current plan, with significant mitigation

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measures provided to produce a *greater* benefit to the environment than would result from provision of the full buffers. Additionally, under the current plan, the total open space and green area on the 308 acre Property will be 234 acres, or 76% of the site.

Of even more significance, however, is the Property's location less than one mile from the Glenmont Metro station. As you are aware, use of mass transit has a substantial beneficial impact on the environment and, therefore, higher densities near metro stations are desirable both from an environmental as well as a planning perspective. Increased density on the Property, which can only be achieved via an increase in the percentage of attached units due to the constraints of the building envelope established by the existing golf course, is therefore "more desirable from an environmental perspective than development that would result from adherence to [the standard] percentage limits."

In this regard, it is important to note the unique set of circumstances that distinguish the proposed development from other developments. With the proposed development, the ongoing golf club and continuous clubhouse operations and portions of the existing golf courses will be retained (and in part be redeveloped), resulting in pre-existing development constraints, as opposed to self-made constraints. Accordingly, this situation is distinguishable from a totally new proposal that includes both a golf course and residential element, where there is an option of either reducing density to accommodate the new golf course or eliminating it to achieve full residential buildout and MPDUs. Thus, the existing conditions on the Property, and the development constraints they present through their necessary retention, we believe further support the need for the instant request, making this case clearly distinguishable from a case of "self-created hardship."

Second, the site constraints affecting building envelope and site layout created by the pre-existing golf course impact the project's ability to provide an increased number of MPDUs on-site without the requested increase in the percentage of attached units. Through the use of an increased percentage of attached units, Winchester is proposing 15% on-site MPDUs, in spite of the site constraints and without a density bonus, to assist in addressing the County's significant need for moderate cost housing. However, this provision of 15% MPDUs on-site cannot occur without increasing the number of attached dwelling units in the project above the standard maximum percentage to allow for sufficient density to support the provision of MPDUs on-site. Denial of the requested increased percentage of attached units would therefore not only prove an economic hardship for Winchester, who would then have to provide 12.5% units on site with a significantly reduced unit yield, but would also constitute a loss for the County, with the reduction in the number of MPDUs provided on the Property from 83 MPDUs to 64 MPDUs.

Mr. Derick P. Berlage, Chairman

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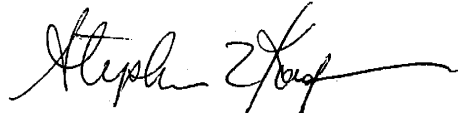
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Finally, approval of an increased percentage of attached units under either, or both, of the justifications reviewed above will achieve the same, if not better, level of compatibility with adjacent development as would a development using the standard maximum percentage of attached units. As you are aware, the site is bordered on the east and south by the Northwest Branch Stream and Bel Pre Creek tributary, respectively, and the existence of these waterways provide a substantial buffer between the Property and other developments to the east and south. This buffer is further enhanced by the approximately 1100 foot setback of the closest proposed lot from Northwest Branch and approximately 550 foot setback of the nearest proposed lot from Bel Pre Creek. On the west side of the Property, the existing golf course use and clubhouse will continue to exist and, therefore, the existing compatibility with properties to the west will be maintained. To the north and northwest, all proposed lots fronting on adjacent development will be single family detached, to maintain the same level of compatibility as would exist if all proposed units were detached. Therefore, adjacent development will be unaffected by the proposed increased percentage of attached units, all of which will be interior to the site, and, if anything, the environmental benefits reviewed above will increase compatibility of the proposed project with adjacent development.

Thank you in advance for your consideration of this request. We look forward to continuing our presentation of the Preliminary Plan to you on May 26, 2005. In the meantime, if you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,

LINOWES AND BLOCHER LLP



Stephen Z. Kaufman



Erin E. Girard

cc: Stephen Nardella
Michael Lemon
Michael Conley

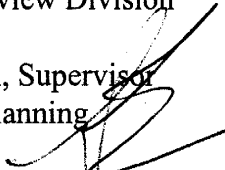


THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

May 18, 2005

MEMORANDUM

TO: Rich Weaver, Planner/Coordinator
Development Review Division

FROM: Shahriar Etemadi, Supervisor
Transportation Planning 

SUBJECT: Preliminary Plan No. 1-04108
Indian Spring Country Club
Kensington/Wheaton Policy Area

The above-referenced application proposes 216 single-family home and 338 townhouses for a total of 554 units located on the east side of Layhill Road between Bonifant Road and Randolph Road. The Northwest Branch Park is located along the eastern property line. Existing single-family residential neighborhoods surround the property on the other three sides. The existing 36-hole golf course is proposed as an 18-hole golf facility, with a total of 554 residential units on the subject property. The existing golf clubhouse will remain on the western side of the property. Improvements to the existing parking lot are proposed. Access to the golf facility is provided from Indian Spring Access Road.

Discussion

According to their submitted traffic study and our analysis of the master plan for the area, the following transportation improvements are needed to accommodate the land use proposed for this site.

1. The internal roadway network must include Indian Spring Access Road, Tivoli Lake Boulevard, and Foggy Glen Drive. The three streets intersect at a public square in the center of the site.
2. Fifteen other public streets, six of which terminate at cul-de-sacs, and a network of private alleyways provide access to the residential units. Each unit has parking accommodations for two vehicles, and visitor parking should be provided on the site.

3. Narrow closed section 26-foot pavement streets, a public square, and traffic circles should be provided to discourage non-local traffic through the neighborhoods.
4. Primary access from Layhill Road. Currently, Indian Spring Access Road is a private drive that connects Layhill Road to the existing Indian Spring Country Club's parking area. Indian Spring Access Road is buffered from the residential neighborhoods by physical barriers and different vertical grades. For this reason, it cannot be connected to the adjacent residential streets of Wagon Way and Middlevale Lane on the northwest and Middlebridge Drive to the southwest. The existing Indian Spring Access Road must be upgraded to a primary residential to provide two approach lanes at the intersection with Layhill Road on a 70-foot right-of-way that meets DPWT requirements.
5. Primary access from the Tivoli Lake Boulevard and Randolph Road intersection. Tivoli Lake Boulevard currently provides access to 527 residential units in the Tivoli Community. As it exists today, the road is consistent with Primary Residential roadway standards with a 36-foot paving width. It terminates at the southern property line of the proposed site near Hugo Circle. Parking on Tivoli Lake Boulevard is prohibited in order to allow a path for emergency vehicles.

The 554 single-family detached and attached units proposed for the site will generate approximately 332 morning and 391 evening peak-hour trips that are in addition to the existing golf facility traffic. The proposed Indian Spring Access Road is designated as a primary residential street. According to Section 49-34(d) of the Montgomery County Code, a primary residential street must be provided from a residential development that has 200 or more housing units. (However, network consideration and safety dictates more than one access when the residential size increases.)

Transportation Planning staff has determined that Tivoli Lake Boulevard must be extended into the proposed site to provide a needed second point of primary access for the proposed development at Indian Spring. This recommendation is in accordance with the Kensington-Wheaton Master plan recommendations for this connection if the subject site is developed.

According to the 1989 *Master Plan for the Communities of Kensington-Wheaton* (page 98):

Indian Spring Access Road (P-13) provides access to the Indian Spring Country Club. If and when redeveloped with another use, the Country Club should be provided with access from Layhill Road and Randolph Road. Access from Layhill Road should be provided by reconstructing the existing access road to the typical primary residential street standard. Access from East Randolph Road should be provided by extending the primary street named Tivoli Lake Boulevard. The internal street network of any such development should be continuous but designed with the idea of preventing a cut-through traffic movement between Layhill Road and Randolph Road.

The proposed road should be tapered from the existing road section to a closed section design that includes 26 feet of pavement and a pathway on the west side. This is to reduce the limit of disturbance as the road crosses the Bel Pre Creek.

Tivoli Lake Boulevard extension provides the additional primary access road that conforms to the Master Plan. It provides direct routes to travel between adjacent neighborhoods without using arterial routes, potentially reducing traffic on major highways. It provides an alternative primary route for emergency response from the south, and could potentially reduce the response time of emergency fire, rescue, and medical vehicles. Our assumptions are based on the starting point of the emergency vehicles at the intersection of Georgia Avenue and Randolph Road. Speed of the vehicles was assumed to be 35 miles per hour on Layhill Road and Randolph Road and about 20 miles per hour on internal streets of the site. It was assumed that there would be little or no average delays for the emergency vehicles at the intersections as these vehicles will be able to pass through the red lights. Our indication is that response time by emergency vehicles, based on those assumptions, could be reduced by more than 30 percent depending on the location of the site of the emergency.

It is also essential to provide a secondary access so if one access to the community is closed due to accidents or weather related emergencies, the traffic from the community could safely enter or exit the new development or emergency vehicles will have an alternative route to reach the community.

Staff analysis indicates that there is a very little chance that traffic traveling on Layhill Road or Randolph Road will cut through this neighborhood in order to save travel time. Staff has analyzed the travel time through the neighborhood, considering the speed and distance and concluded that there will be no travel time saved by travelers between the two major roads going through this neighborhood.

The extended Tivoli Lake Boulevard will reduce the distance by more than half for the residents of this community to reach the Glenmont Metro station as compared to reaching the same destination via Indian Spring Access Road and Layhill Road. This is an important factor for reducing the travel time for people living in the area to reach a major transit center. By extending this road, residents of the new development will be approximately a mile away from Glenmont Metro station. Otherwise, the distance will be more than two miles.

Approximately 355 daily trips from the subdivision will be traveling east on Randolph Road. If Tivoli Lake Boulevard is not connected, those travelers must travel an additional two miles via Indian Spring Access Road. That is a total of 670 additional vehicle miles per day. Over the course of ten years, that would be 1,675,000 additional vehicle miles which would be consuming 76,000 gallons of gasoline and waste 84,000 hours of time for all those future trips made during the next ten years.

Questions have been raised as to what impact this development will have on redevelopment of the Glenmont Sector Plan area. Is this development likely to take the traffic capacity needed for redevelopment of the Glenmont area? This issue was evaluated at the time of preparing the sector plan. At that time, several land use scenarios were evaluated for their impact on the area transportation system. The result was specific recommendations in the sector plan for a

transportation system that can accommodate new land use in the area. The recommendations included grade separation of Georgia Avenue and Randolph Road and bifurcation of Layhill Road among other improvements. That is a long-term plan. The impact of Glenmont redevelopments will be addressed when those proposals are submitted to the Planning Department taking into account capital facilities that are planned at that time. The overall Glenmont Sector Plan land use and transportation were balanced at plan buildout.

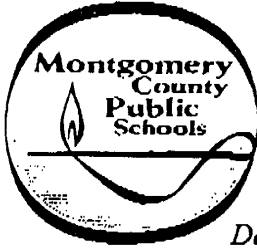
Extension of Tivoli Lake Boulevard will have an additional benefit of providing an alternative primary access route for the 527 current residential units in the Tivoli Community.

6. Tertiary access from the existing terminus of Foggy Glen Drive. Foggy Glen Drive currently terminates at the northern property line of the proposed site. It is a tertiary residential roadway that does not make a direct connection to Bonifant Road because no nearby roadways cross the Matthew Hensen Greenway. It provides a circuitous connection to Layhill Road via Wagon Way, Huxley Cove Court/Sullivan Lane, or Middlevale Lane. Foggy Glen Drive needs to continue onto the proposed site as a secondary residential roadway with a 70-foot-wide right-of-way, a 26-foot-wide paving section, and sidewalks on both sides.

SE:kcw

mmo to weaver re indian spring discussion.doc

Attachment D



850 Hungerford Drive * Rockville, Maryland * 20850-1747

Telephone (301)

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Department of Facilities Management, 7361 Calhoun Place, Suite 400, Rockville, MD 20855

FAX -301-279-3737

May 18, 2005

Ms. Catherine Conlon, Acting Supervisor
 Development Review Division
 Maryland-National Capital Park
 and Planning Commission
 8787 Georgia Avenue
 Silver Spring, Maryland 20910

Dear Ms. Conlon:

Re: Indian Spring Property (Preliminary Plan #1-04108)

~~This is to comment on the referenced preliminary plan in connection with previous conditions of the Pre-preliminary Plan #7-03058, approved by the Montgomery County Planning Board on March 11, 2004. Condition #9 stated,~~

"Applicant to continue working with M-NCPPC and Montgomery County Public Schools (MCPS) to complete a site search for a needed elementary school site as defined by MCPS. Suitable site to be deemed acceptable to MCPS prior to preliminary plan approval."

Since March 2004, the Applicant has provided assistance in identifying and preparing concept drawings for a three-acre, privately-owned parcel being considered by MCPS to assemble with adjacent county-owned land for a future elementary school site to serve the area impacted by the Indian Spring development. In the course of conducting due diligence research on the property, we have recently discovered that wetlands are present on the site. While we have not abandoned the strategy to acquire this property so the new school can be co-located with the other county facilities, further analysis of the cost to use this parcel has to be done to determine if this is the most cost-effective approach for the future school site.

Unfortunately, we will not be able to determine for certain if the cost to develop the property adjacent to county-owned land is the most economical approach for several months. Once the environmental mitigation issues are known, we will have to do a comparative cost analysis between the co-location approach and other options, such as purchasing a separate site for the future school. These options will then have to be reviewed with the Board of Education and the County Council for a final decision on the funding/cost issues.

Ms. Catherine Conlon

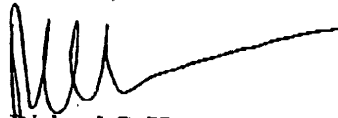
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May 18, 2005

Based on the time it will take to reach a final decision on the best approach for the future school site, I am requesting that, as a condition of preliminary plan approval, the Planning Board include a requirement that the Applicant identify a suitable elementary school site from within the Indian Spring development to be placed in reservation for an 18-month period. This will give us an opportunity to determine the feasibility of the co-location approach and enable the Board of Education to include a recommendation in the FY 2007-2012 Capital Improvements Program request for County Council review/approval.

Thank you again for your cooperation and assistance. Staff with MCPS will be present at the May 26, 2005, Planning Board meeting should there be additional questions. If you need additional information, please contact Ms. Janice M. Turpin, leader, Real Estate Management Team, at 301-279-3131.

Sincerely,



Richard G. Hawes, Director
Department of Facilities Management

RGH:mpw

Copy to:

Ms. Turpin
Mr. Kaufman
Mr. Weaver