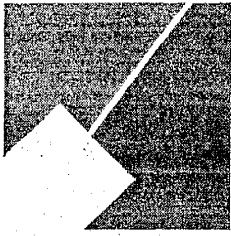


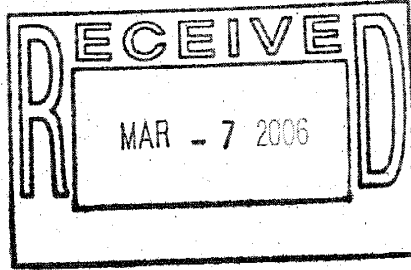
M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org



Date Mailed: JAN 09 2006

Hearing Date: July 21, 2005

Action: Approved Staff
Recommendation

Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
with a vote of 4-0;
Chairman Berlage and Commissioners.
Bryant, Perdue, and Robinson voting in
favor. Commissioner Wellington absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-02063B
NAME OF PLAN: Fraley Property

The date of this written opinion is JAN 09 2006 (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).

INTRODUCTION

On 5/10/04, The Bozzuto Group ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the R-90 zone. The application proposed to create 21 lots on 6.22 acres of land located at the north side of Muncaster Mill Road (MD 115) opposite Millcrest Drive, in the Upper Rock Creek master plan area ("Subject Property"). The application was designated Preliminary Plan 1-02063B ("Preliminary Plan"). On 7/21/05, the Preliminary Plan was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the 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 at the conclusion of 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; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

SUBJECT PROPERTY

The Subject Property is located within the Upper Rock Creek watershed, a Use III stream, near the intersection of Muncaster Mill and Shady Grove Roads. Muncaster Mill Road (MD Rte. 115) borders the site to the west and south; Saint Luke's Lutheran Church and Mill Creek United Methodist Church are located to the east, and Central Baptist Church to the north. The church sites are zoned R-200 and R-90, respectively. The surrounding properties to the south and east of the Subject Property at the intersection of Muncaster Mill Road and Muncaster Road consist of a mix of individual commercial and retail establishments. Additional retail and commercial establishments are located within the Redmill Shopping Center directly across Muncaster Mill Road. The Gaithersburg/Washington Grove Fire Station is located at the southeastern quadrant of the intersection of Shady Grove Road and Muncaster Mill Road. The Mill Creek Towne Subdivision is located at the northwest quadrant of the intersection with Shady Grove Road and Muncaster Mill Road.

The site is a combination of five parcels, which formerly contained five older residential structures and open lawn areas. The site has recently been cleared and graded in conformance with the previously approved site plan. A stormwater management facility is located in the southwestern portion of the site near Muncaster Mill Road. No forest exists on the site and a board-on-board fence has been installed on the northeastern boundary adjacent to the two church properties. The site falls in elevation by approximately twenty feet from north to south.

PROJECT DESCRIPTION

This first section of this two-phase project included 32 townhouses. The units are located in two clusters with the front doors of one row of units facing Muncaster Mill Road. The remainder of the townhouse units is located in a cluster internal to the site. The proposed application for the amendment includes twenty-one additional units for a total of 53, located on the north and west side of proposed Phelps Mill Lane. All of the units are rear-loaded garage units that front on a private street, with an alley for access in the rear of the buildings.

Due to the site configuration and single point of access, all of the internal streets are private and are lined with street trees and sidewalks on both sides.

PRIOR APPROVALS

Zoning/Development Plan

A portion of the subject property was rezoned from the R-90 Zone to the RT-12.5 Zone by Sectional Map Amendment G-827 on October 26, 2004.

Preliminary Plan

Preliminary Plan 1-02062 was approved on December 20, 2002, for 32 one-family detached dwelling units in the RT-12.5 Zone.

Preliminary Plan Revision

Preliminary Plan 1-02062A was approved for revisions to the road alignment that was originally connecting through Parcel 532 to Muncaster Road.

Site Plan

Site Plan 8-03030 was approved on October 20, 2003, for 32 townhouses in the RT-12.5 Zone.

CONFORMANCE TO MASTER PLAN

The Upper Rock Creek Area Master Plan recommends the RT-12.5 zone for the Fraleley property. The property (or, more accurately, properties) had been split between the RT-12.5 and R-90 zones. The Master Plan's rationale was that, given the existing pattern of development, a modest expansion of townhouse zoning in the area of the Redland business district was appropriate and consistent with the original intent of the 1968 Upper Rock Creek Master Plan, which was to create an appropriate transition from the commercial area to surrounding residential communities.

The Master Plan included the Fraleley property in the area designated for both the special protection area and the accompanying environmental overlay zone. As an incentive to provide some affordable housing at this location (the original proposal predated the reduction in the number of lots needed to trigger provision of MPDUs from 50 units to 35 units), the County Council elected to exempt the Fraleley property from the impervious caps set out in the environmental overlay zone if a subdivision plan showing moderately priced dwelling units was submitted. The original Preliminary and Site Plan was submitted and approved. The amendment and subsequent plans are consistent with the Upper Rock Creek Area Master Plan.

PLANNING BOARD HEARING¹

Staff described the location of the site and the proposed development. Staff distributed additional language to its recommendation of approval of the Preliminary Plan with conditions.

The Applicant was represented by legal counsel and agreed with the recommendation of Staff including the proposed additional language.

Mr. Wayne Goldstien representing the Montgomery County Civic Federation Housing Committee provided testimony at the Planning Board hearing, specifically addressing and supporting the provision of affordable housing units on the property. He testified that the MPDUs were a benefit to the area in-lieu-of the impervious limitations that were not being applied to the site. The County Council elected to exempt the subject property from the impervious cap set out in the environmental overlay zone if a subdivision including moderately priced dwelling units was submitted. Mr. Goldstien also testified in support of the additional regulations included in the final water quality plan for stormwater management to address concerns with runoff from the site.

Commissioner Berlage posed numerous questions to the applicant, Mr. Clark Wagner, Vice President of Bozzutto Homes, with regard to the process his company has to check and verify that buildings meet all of the zoning and site plan requirements, including height of the buildings and setbacks to adjacent properties. Mr. Wagner responded by stating the procedures and steps during the design and construction process his company uses to verify that the site and buildings comply with local regulations.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies²; 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, with the conditions of approval, that:

- a) The Preliminary Plan No. 1-02063B substantially conforms to the Upper Rock Creek master plan.

¹ The hearing on the Preliminary Plan, Water Quality Plan and Site Plan for the Subject Property was held concurrently.

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.

- 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.
- 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 application satisfies all the applicable requirements of Montgomery County Code Chapter 19, Article V (Water Quality Review in Special Protection Areas).
- g) 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.

PLANNING BOARD ACTION

Finding Preliminary Plan No. 1-02063B in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board hereby approves Preliminary Plan No. 1-02063B for 21 additional townhouse units for a total of 53 townhouses, including 7 MPDUs units, on 6.24 acres. All site elements of the Fraleley Property Preliminary Plan stamped by the M-NCPPC Staff on July 7, 2005, shall be required except as modified by the following conditions:

- 1) Approval under this preliminary plan is limited to 21 townhouse units.
- 2) 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.
- 3) All road right-of-ways shown on the approved preliminary plan shall be constructed by the Applicant, to the full width mandated by the Upper Rock Creek Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.

- 4) Prior to submission of initial plat application, Applicant to receive authorization from the State Attorney's Office for relocation of identified grave sites on the subject property.
- 5) Record plat to reflect common ingress/egress easements over all shared driveways.
- 6) Record Plat to reflect all areas under Homeowners Association ownership and Stormwater Management areas.
- 7) 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 the issuance of the 14th building permit for the lots approved in Phase II that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 8) Compliance with the conditions of MCDPS stormwater management approval dated July 29, 2003.
- 9) Compliance with conditions of MCDPWT letter dated, August 28, 2003, unless otherwise amended. *Preliminary & Final Water Quality Plan? need to mention approval*
- 10) Access and improvements, as required, to be approved by MDSHA prior to issuance of building permits.
- 11) No clearing, grading or recording of plats prior to site plan signature set approval.
- 12) Final approval of the number and location of dwelling units, sidewalks, and bike paths will be determined at site plan.
- 13) Final number of MPDUs, as per condition #12 above, to be determined at the time of site plan.
- 14) 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.
- 15) Other necessary easements.

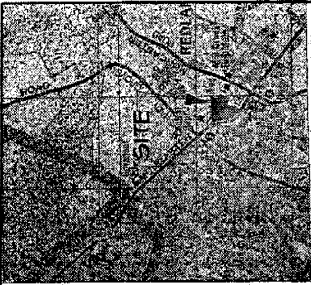
This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among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

* * * * *
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

WITNESSES TO LEGAL SUFFICIENCY

DMP 12/19/25

LEGAL DEPARTMENT



VICINITY MAP
 CONTRACT NO. 8-03030 A
 SHEET 3 OF 3
 PREPARED BY: [Signature]

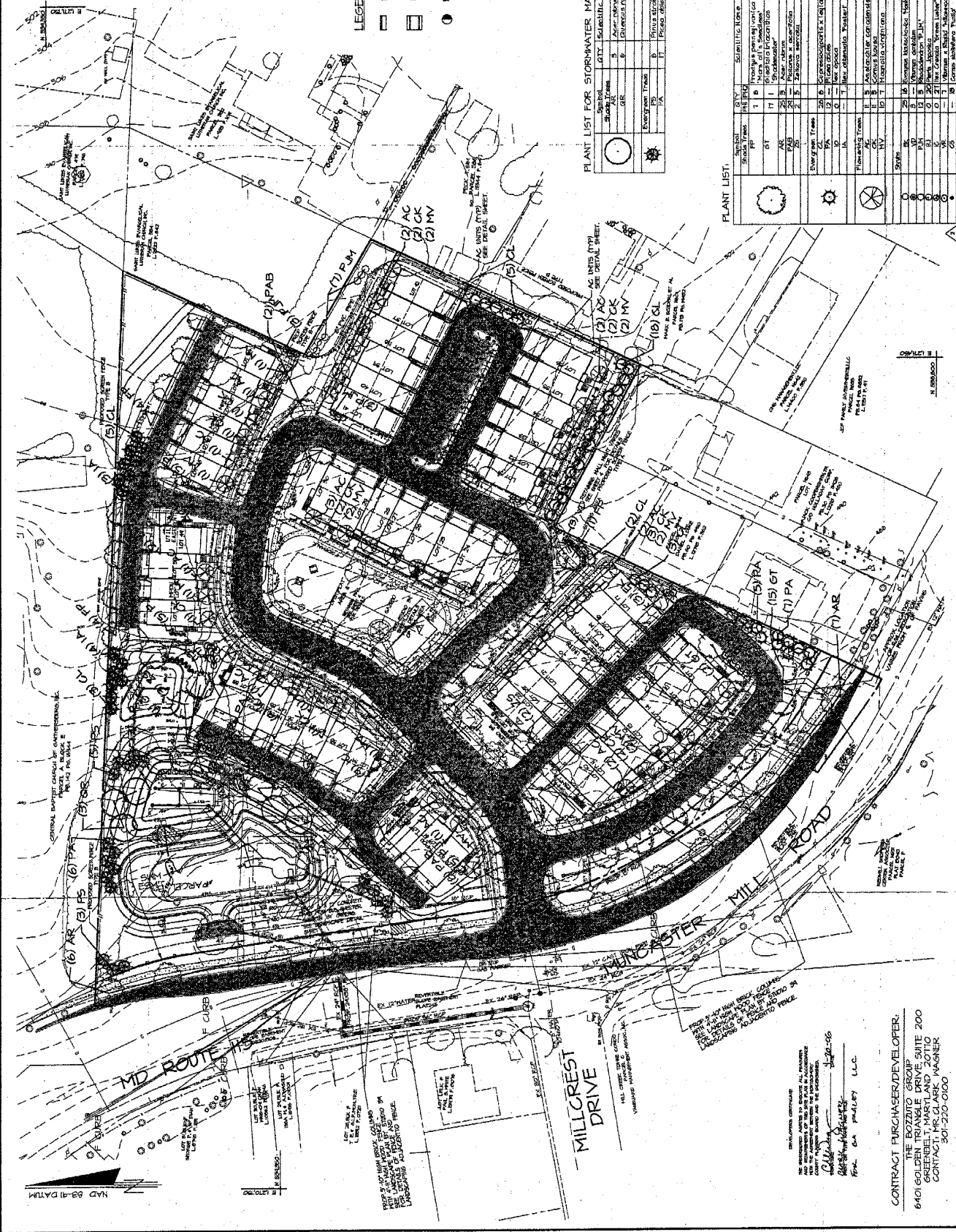
- LEGEND:
- ▭ PROPOSED BENCH
SEE DETAIL SHEET 2
 - ▭ PROPOSED PICNIC TABLE
SEE DETAIL SHEET 2
 - PROPOSED STREET LIGHT

PLANT LIST FOR STORMWATER MANAGEMENT FOND:

Symbol	Plant Name	Quantity	Notes
○	Red Maple	20	20' x 25' x 22'
○	White Birch	20	20' x 25' x 22'
○	Black Gum	20	20' x 25' x 22'
○	Red Oak	20	20' x 25' x 22'
○	White Oak	20	20' x 25' x 22'
○	Black Walnut	20	20' x 25' x 22'
○	Red Elm	20	20' x 25' x 22'
○	White Elm	20	20' x 25' x 22'
○	Black Locust	20	20' x 25' x 22'
○	Red Cedar	20	20' x 25' x 22'
○	White Pine	20	20' x 25' x 22'
○	Black Spruce	20	20' x 25' x 22'
○	Red Spruce	20	20' x 25' x 22'
○	White Spruce	20	20' x 25' x 22'
○	Black Fir	20	20' x 25' x 22'
○	Red Fir	20	20' x 25' x 22'
○	White Fir	20	20' x 25' x 22'

PLANT LIST:

Symbol	Plant Name	Quantity	Notes
○	Red Maple	20	20' x 25' x 22'
○	White Birch	20	20' x 25' x 22'
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○	Black Spruce	20	20' x 25' x 22'
○	Red Spruce	20	20' x 25' x 22'
○	White Spruce	20	20' x 25' x 22'
○	Black Fir	20	20' x 25' x 22'
○	Red Fir	20	20' x 25' x 22'
○	White Fir	20	20' x 25' x 22'



SIGNATURE SET LANDSCAPE PLAN
 PHASE 2
 SITE PLAN # 8-03030 A

DATE: DEC 2004
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

SCALE: 1"=30'
 JOB NO.: 10755

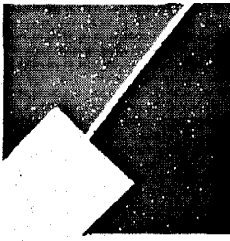
PLANT LIST: [Table Reference]

CONTRACT PURCHASER/DEVELOPER:
THE BOZAITO GROUP
 6401 GOLDEN TRAVALE DRIVE SUITE 200
 GREENBELT, MARYLAND 20710
 CONTACT: MR. CLARK WAGNER
 301-220-0100

Apex engineering

Received 1/13/06

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Date Mailed: JAN 10 2006
 Hearing Date: July 21, 2005
 Action: Approved Staff
 Recommendation
 Motion of Commissioner Bryant,
 seconded by Commissioner Robinson,
 with a vote of 4-0;
 Chairman Berlage and Commissioners.
 Bryant, Perdue, and Robinson voting in
 favor. Commissioner Wellington absent.

MONTGOMERY COUNTY PLANNING BOARD
OPINION

Site Plan No. 8-03030A
 NAME OF PLAN: Fraley Property

The date of this written opinion is JAN 10 2006 (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, as provided in the Maryland Rules, thirty days from the date of this written opinion. This site plan shall remain valid as provided in Section 59-D-3.8.

INTRODUCTION

On July 21, 2005, Site Plan No. 8-03030A ("Site Plan") was brought before the Montgomery County Planning Board for a public hearing. The Bozutto Group ("Applicant") proposed 21 additional townhouse units for a total of 53 townhouses, including 7 MPDUs, on 6.24 acres zoned RT-12.5. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

THE SUBJECT PROPERTY

The property is located within the Upper Rock Creek watershed, a Use III stream, near the intersection of Muncaster Mill and Shady Grove Roads. Muncaster Mill Road (MD Rte. 115) borders the site to the west and south; Saint Luke's Lutheran Church and Mill Creek United Methodist Church are located to the east, and Central Baptist Church to the north ("Subject Property"). The church sites are zoned R-200 and R-90, respectively. The

Fraley Property
Site Plan No. 8-03030A
Page 2

surrounding properties to the south and east of the subject site at the intersection of Muncaster Mill Road and Muncaster Road consist of a mix of individual commercial and retail establishments. Additional retail and commercial establishments are located within the Redmill Shopping Center directly across Muncaster Mill Road. The Gaithersburg/Washington Grove Fire Station is located at the southeastern quadrant of the intersection of Shady Grove Road and Muncaster Mill Road. The Mill Creek Towne Subdivision is located at the northwest quadrant of the intersection with Shady Grove Road and Muncaster Mill Road.

The site is a combination of five parcels, which formerly contained five older residential structures and open lawn areas. The site has recently been cleared and graded in conformance with the previously approved site plan. A stormwater management facility is located in the southwestern portion of the site near Muncaster Mill Road. No forest exists on the site and a board-on-board fence has been installed on the northeastern boundary adjacent to the two church properties. The site falls in elevation by approximately twenty feet from north to south.

PRIOR APPROVALS

Zoning/Development Plan

A portion of the subject property was rezoned from the R-90 Zone to the RT-12.5 Zone by Sectional Map Amendment G-827 on October 26, 2004. The reclassification of this portion of the site was intended specifically to encourage the provision of moderately priced dwelling units, previously not required under the initial preliminary plan approval. As an incentive to provide the MPDUs, the site is not subject to the Upper Rock Creek impervious cap.

Preliminary Plan

Preliminary Plan 1-02062 was approved on December 20, 2002, for 32 one-family detached dwelling units in the RT-12.5 Zone.

Preliminary Plan Revision

Preliminary Plan 1-02062A was approved for revisions to the road alignment that was originally connecting through Parcel 532 to Muncaster Road.

Site Plan

Site Plan 8-03030 was approved on October 20, 2003, for 32 townhouses in the RT-12.5 Zone.

PROPOSED DEVELOPMENT

The first section of this two-phase project included 32 townhouses. The units are located in two clusters with the front doors of one row of units facing Muncaster Mill Road. The remainder of the townhouse units is located in a cluster internal to the site. The proposed application for the amendment to the site plan now includes twenty-one additional units for a total of 53, located on the north and west side of proposed Phelps Mill Lane. All of the units are rear-loaded garage units that front on a private street, with an alley for access in the rear of the buildings.

Due to the site configuration and single point of access, all of the internal streets are private and are lined with street trees and sidewalks on both sides.

A 6 ft. wooden fence is located on the eastern boundary that will screen the adjacent commercial, institutional and office uses from the proposed site. A decorative masonry pier and rail fence is proposed along the Muncaster Mill frontage. The site is planned with street trees, evergreen screening, foundation shrubs and ornamental trees. Small shrubs have been proposed for the alleys in-between every other driveway to improve the alley's appearance. Lights are proposed on site that will be on 12-foot poles. The maximum foot-candles are 3.7 utilizing a 100-watt metal halide light source. The recreation facilities are located in the center of the site and consist of open fields, sitting and picnic areas.

Noise contours for the site indicate the front units along Muncaster Mill Road and 4 rear yards are above 65 dBA and mitigation is required. Architectural controls and internal sound walls (at the end of units) are proposed.

PLANNING BOARD HEARING¹

Staff described the location of the site and the proposed development. Staff distributed additional language to its recommendation of approval of the Final Water Quality Plan and Site Plan with conditions. Staff reviewed the Applicant's request for a reduction in the side yard setback for Lot 43. Staff recommended approval of the Applicant's request finding that the location of Lot 43 is desirable especially given the new fence proposed by the Applicant as a buffer for the church. In addition, Staff found that the location of Lot 43 is desirable because it supports a mix of MPDUs within the proposed units.

¹ The hearing on the Preliminary Plan, Water Quality Plan and Site Plan for the Subject Property was held concurrently.

The Applicant was represented by legal counsel and agreed with the recommendation of Staff including the proposed additional language.

Mr. Wayne Goldstien representing the Montgomery County Civic Federation Housing Committee provided testimony at the Planning Board hearing, specifically addressing and supporting the provision of affordable housing units on the property. Mr. Goldstien also testified in support of the additional regulations included in the final water quality plan for stormwater management to address concerns with runoff from the site.

Commissioner Berlage posed numerous questions to the applicant, Mr. Clark Wagner, Vice President of Bozutto Homes, with regard to the process his company has to check and verify that buildings meet all of the zoning and site plan requirements, including height of the buildings and setbacks to adjacent properties. Mr. Wagner responded by stating the procedures and steps during the design and construction process his company uses to verify that the site and buildings comply with local regulations.

PLANNING BOARD FINDINGS

Based on all of the testimony and evidence presented and on the staff report, which is made a part hereof, the Montgomery County Planning Board finds:

1. *The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required.*

An approved development plan or a project plan is not required for the subject development.

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

Based on the Staff's recommendations and findings, the Planning Board expressly finds that Lot 43 as proposed promotes a more desirable form of development and hereby approves the Applicant's requested reduction of setback for Lot 43 from 30 feet to 10 feet in Phase II in the northwest corner directly adjacent to Parcel 532. The remaining lots shall meet the 30-foot side yard setback. The reduction of the side yard setback from 30 feet to 10 feet allows more flexibility for the development and does not create an adverse impact on the adjoining property. With this approved reduction in setback for Lot 43, the Site Plan meets all of the requirements of the RT-12.5 Zone as demonstrated in the project Data Table below.

PROJECT DATA TABLE (RT-12.5 Zone)

	Zoning Ordinance Development Standard	Dev. Standard approved by the Planning Board and binding on Applicant
Min. Tract Area (ac.):	0.46	
Phase I (previously approved)		4.68
Phase II		<u>1.56</u>
Total		6.24
Net Site Area after dedication (ac.):		
Phase I (previously approved)		4.21
Phase II		<u>1.56</u>
Total		5.77
Max. Density of Development (d.u./ac.)	12.5	9.3
Number of Dwelling Units (townhouses):	72	
Phase I (previously approved)		32
Phase II		<u>21</u>
Total		53
Min. Building Setbacks (ft.)		
From any detached dwelling lot or land classified in a one-family, detached, residential zone	30	30 (except for Lot 43, which is approved for 10')*
from a public street	25	25
from an adjoining lot		
rear yard	10	10
side yard	20	20
Min. Lot Size (sf.)	N/A	1,206
Min. lot width at existing or proposed Street line (ft.):	25	25
Max. lot coverage (%):	35	26
Min. Green Area (%):	50	52
Max. Building Height (ft.):	35	35
Parking Spaces		
townhouse units (2 sp./unit)	106	112 (99 garage sp./ 13 surface sp.)

- * Pursuant to Sect. 59-C-1.732. Building Setbacks. Per the Planning Board's findings above, the Planning Board approved a reduction in setback for lot 43 from the required 30 feet to 10 feet in Phase II in the northwest corner directly adjacent to Parcel 532. The remaining lots shall meet the 30-foot side yard setback.

3. *The locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

a. Buildings

The locations of the buildings and structures are adequate, safe, and efficient. The buildings are arranged in courts and clusters that relate to surrounding and internal streets. The two phases have a desirable relationship with each other and to the surrounding uses and structures. The buildings allow for the creation of useable open spaces for outdoor recreation. The layout allows for optimal orientation to each unit for visitors on site.

b. Open Spaces

The locations of the open spaces are adequate, safe, and efficient. The site plan is within the Environmental Overlay Zone for the Upper Rock Creek watershed; however, the site is not subject to the impervious cap instituted as part of the Master Plan guidelines. The RT-12.5 Zone requires 50 percent of the total site to remain as green space, and the site plan provides 52 percent. The majority of the open space is centered in the development with proposed units facing a larger green area. The additional open space is concentrated in the southwest portion of the site as part of the stormwater management facility and along the perimeter of the site.

The Stormwater Management concept has been approved by Montgomery County Department of Permitting Services (DPS) in a letter dated July 29, 2003. The concept consists of on-site channel protection measures via a dry pond; on-site water quality control via a surface sand filter; and on-site recharge via stormchambers. The Final Water Quality Plan for the Upper Rock Creek Special Protection Area was approved by DPS in a letter dated May 24, 2005 specifically to address stormwater runoff in the Upper Rock Creek watershed.

c. Landscaping and Lighting

The landscaping and lighting are adequate, safe, and efficient. The proposed landscaping will provide shade, buffering and create attractive open spaces.

The proposed lighting plan will include an average foot-candle level of .9 to .7 for the paved surfaces on site and max to min. ratio of 6 and 9.5 to 1 for the site. The pole heights are 12 feet and they are located on the site with a 120-foot separation. The site plan indicates that projections from all of the light fixtures will remain within the property boundaries.

d. Recreation

The recreation facilities are adequate, safe, and efficient. Recreation demand is satisfied as shown in the recreation calculations set forth in the staff report dated July 21, 2005. The recreation will provide for a variety of outdoor exercise and play opportunities with the open space play areas and sitting and picnic areas.

e. Vehicular and Pedestrian Circulation

Vehicular and pedestrian circulation is safe, adequate and efficient. The street connections to the site are in accordance with the amended Preliminary Plan, and the layout provides private street access to each unit and adequate circulation within the site.

Pedestrian paths/bike paths are provided along each street and along the frontage road of Muncaster Mill Road. The bike path will connect to an offsite bike path in the adjacent parcel to the north along Muncaster Mill Road.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The buildings will create minimal impact on the adjacent commercial and institutional buildings and land uses. The side yards will be oriented to adjacent land uses so the greatest mass of the building will be minimized. The reduction of the side yard setback does not adversely affect the adjoining church parcel and the existing evergreen screen provides sufficient buffer from the church property.

Buffers proposed between this residential project and the adjacent uses to the east will include a 6-foot wooden fence and some evergreen buffer plantings.

Noise Issues

A noise analysis was conducted for the Subject Property and revealed that the proposed residential units nearest Muncaster Mill Road will be impacted by the current and future noise generated from vehicle traffic along Muncaster Mill Road. The noise analysis indicates that unmitigated noise levels will range from 65 and 70 dBA Ldn for the units facing Muncaster Mill Road, which is greater than the levels recommended in the Noise Guidelines. Fronting the units to Muncaster Mill Road will reduce the noise levels to the rear of the units to an acceptable exterior noise level of less than 60 dBA Ldn. For those units in which the townhouses do not act as a barrier, side screens are proposed to reduce the impacted deck areas. The noise consultant indicates that interior noise levels can be reduced by good quality construction. By complying with the recommendations provided by the applicant's noise consultant, Environmental Planning found that the interior and exterior noise levels can be reduced to acceptable levels.

The activity associated with the proposed residential use will not cause any negative effect on the adjacent restaurants and churches and offices.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection.*

The property does not contain any existing forest. The existing vegetation includes hedgerows, shrubs, unmowed fields, and invasive trees, shrubs, and vines. There are specimen trees on the property; however, the trees are in poor condition, undesirable species, or invasive trees. The Applicant will remove the poor, undesirable and invasive plants during the clearing of the site. Since no forest exists on the site, the Applicant has an afforestation requirement of 0.94 acres.

With the conditions of approval for the Final Water Quality Plan, the site plan meets all applicable requirements of Chapter 19.

PLANNING BOARD ACTIONS AND CONDITIONS

The Montgomery County Planning Board APPROVES the Final Water Quality Plan, including the Stormwater Management Concept. All site elements of the Fraleley Property plans stamped by M-NCPPC on July 7, 2005, shall be required except as modified by the following conditions:

1. Compliance with the conditions of approval for the final forest conservation plan. The applicant must meet all conditions prior to recording of plat and MCDPS issuance of sediment and erosion control permit(s).

Fraley Property
Site Plan No. 8-03030A
Page 9

2. Conformance to the conditions of Montgomery County Department of Permitting Services SPA water quality plan approval letter dated May 24, 2005.

The Montgomery County Planning Board APPROVES Site Plan Review No. 8-03030A for 21 additional townhouse units for a total of 53 townhouse units, including 7 MPDUs, on 6.24 gross acres in the RT-12.5 Zone. All elements of the Fraley Property plans stamped by M-NCPPC on July 6 and 7, 2005, shall be required except as modified by the following conditions:

1. Site Plan Conformance

The proposed development shall comply with the conditions of approval for Site Plan 8-03030 as listed in the Planning Board opinion dated October 20, 2003.

2. Site Design

- a. Extend the masonry pier and rail fence from proposed Phelps Mill Lane to the western boundary, subject to approval from the Montgomery County Department of Permitting Services to avoid any conflicts with the stormwater management facility.
- b. Slab and alley grades of Lots 43 through 52 to be modified to ensure compliance with 35-foot height limitation.

3. Landscaping

Provide additional shade and ornamental trees along the proposed masonry pier and split-rail fence.

4. Lighting

- a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development that includes the outdoor wall lantern (8507-02) referenced in the lighting plan.
- b. All light fixtures shall be full cut-off fixtures or equipped with refractors, reflectors or shields to negate glare to adjacent properties.
- c. Deflectors, refractors or reflectors shall be installed on all fixtures causing potential glare or excess illumination, especially on the perimeter fixtures abutting the adjacent residential properties.

- d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting adjacent residential properties.
- e. The height of the light poles shall not exceed 12 feet including the mounting base.
- f. Provide the locations of the light fixtures on the site plan and landscape plan.

5. Recreation Facilities

Provide five picnic/seating areas, an open play area and a pedestrian system in accordance with the Recreation Guidelines.

6. Forest Conservation

The proposed development shall comply with the conditions of the final forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.

7. Historic Preservation

Prior to signature set approval, the Applicant shall provide a letter from the State of Maryland attorney's office for the internment and re-internment of the grave-sites located on the site.

8. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated July 29, 2003, and the Final Water Quality approval dated May 24, 2005.

9. Moderately Priced Dwelling Units

The Applicant shall provide 7 MPDUs on-site, consistent with the requirements of Chapter 25A.

10. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 14th building permit for the lots approved in Phase II that the Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

11. Development Program

Applicant shall construct the proposed development in accordance with the Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the signature set of the site plan. The Development Program 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. Community-wide pedestrian pathways and recreation facilities shall be completed prior to issuance of the 14th building permit for the additional lots in Phase II.
- c. Landscaping associated with each unit shall be completed as construction of each unit is completed.
- d. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
- e. Provide each section of the development with necessary roads.
- f. Phasing of dedications, stormwater management, sediment/erosion control, recreation, community paths, trip mitigation or other features.

12. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of the amended signature set of plans.

13. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and Site Plan Opinion.
- b. Limits of disturbance.
- c. Methods and locations of tree protection.