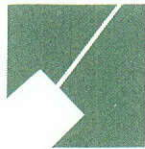


JUN 24 2009



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 09-63
Site Plan No. 820090040
Project Name: Lots 1-10, Parcels A & B, Block 2, Rolling Acres
Date of Hearing: April 23, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is vested with the authority to review site plan applications; and

WHEREAS, on October 16, 2008, Jamaal Homes ("Applicant"), filed an application for approval of a site plan for 10 one-family detached dwelling units ("Site Plan" or "Plan") on 2.23 acres of R-90/TDR-zoned land, located at the southwest quadrant of the intersection of Old Columbia Pike and Carters Grove Drive ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820090040, Lots 1-10, Parcels A & B, Block 2, Rolling Acres (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 9, 2009, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on April 23, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 23, 2009, the Planning Board approved the Application subject to conditions on the motion of Commissioner Robinson; seconded by Chairman

Approved as to
Legal Sufficiency:

Christina Sonnet 6/8/09

8787 Georgia Avenue, NCRPS Regional Department 10 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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Hanson; with a vote of 4-0, Commissioners Cryor, Hanson, Presley, and Robinson voting in favor, Commissioner Alfandre being absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820090040 for 10 one-family detached dwelling units, on 2.23 gross acres in the R-90/TDR zone, subject to the following conditions:

1. Preliminary Plan Compliance
The development must comply with the conditions of approval for Preliminary Plan No. 120060300 as listed in the Planning Board Resolution dated March 27, 2008, unless amended.
2. Forest Conservation & Tree Save
The development must comply with the conditions of the approved Preliminary Forest Conservation Plan and the Final Forest Conservation Plan. The Applicant must satisfy all conditions prior to the recording of a plat or the issuance of sediment and erosion control permits by the Montgomery County Department of Permitting Services. Conditions include, but are not limited to the following:
 - a) Show plantings of native shade trees within common open space and public right-of-way to create a minimum of 0.33 acre of mature canopy tree cover on site.
 - b) Locate shade tree plantings to avoid flow constrictions in swales that convey stormwater runoff.
 - c) Submit financial security to M-NCPPC prior to clearing or grading. Financial security to cover trees planted within common open space.
 - d) Prior to approval of the Final Forest Conservation Plan and Certified Site Plan, provide a list of alternate trees to be approved by Site Plan Review Staff and Environmental Planning Staff.
3. Stormwater Management
The development is subject to Stormwater Management Concept approval conditions dated January 10, 2007, unless amended and approved by the Montgomery County Department of Permitting Services.
4. Transfer of Development Rights (TDRs)
Prior to recording the plat, the Applicant must provide Staff verification that 2 TDRs have been acquired for the development.
5. Site Design
 - a) Lots 7 and 10 must be side loaded from the shared driveway.

- b) Provide architectural treatment on the rear façades of buildings 9 and 10 fronting on Old Columbia Pike to match masonry materials in the front of these buildings.
- c) Eliminate fence along Carters Grove Drive.

6. Landscaping

Replace the American Elm "Liberty" cultivar on the county street tree list with the "Valley Forge" cultivar.

7. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b) All onsite light fixtures must be semi cut-off fixtures.
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d) Illumination levels of the onsite light fixtures shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e) The height of the onsite light poles and fixtures shall not exceed 14 feet.

8. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a) Street lamps and sidewalks must be installed within six months after final paving of the street is completed. Street tree planting may wait until the next growing season.
- b) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c) The common areas shall be completed after the construction of the lots abutting Parcel A.
- d) Landscaping associated with each building shall be completed as construction of each building is completed.
- e) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

9. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a) Include the stormwater management concept approval, development program, inspection schedule, and Site Plan Resolution on the cover sheet.
- b) Add a note to the Site Plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c) Add a note to the Site Plan stating that "The house footprints shown on the site plan are illustrative and will be determined during the building permit process. Please refer to the data table for the development standards such as setbacks, building restriction lines, lot coverage and impervious coverage for each lot."
- d) Modify data table to reflect development standards enumerated in the Staff Report.
- e) Provide detail of the fence.
- f) Provide typical elevation of the rear facades of the buildings fronting on Old Columbia Pike showing architectural treatment, including windows, and masonry materials labeled.
- g) Provide a photometric plan.

BE IT FURTHER RESOLVED that all site development elements as shown on Lots 1-10, Parcels A & B, Block 2, Rolling Acres drawings stamped by the M-NCPPC on March 16, 2009, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

Neither a development plan, diagrammatic plan, schematic development plan, nor a project plan were required for the Subject Property.

2. *The Site Plan meets all of the requirements of the R-90/TDR Zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

Requirements of the R-90/TDR zone using the optional method of development

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Board finds, based on the aforementioned data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the R-90/TDR Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

Development Standards	Approved by the Board and Binding on the Applicant
Gross Tract Area (GTA)	96,977 square feet/ 2.23 acres
Net Tract Area	70,057 square feet/ 1.61 acres
Max. Density (du/acre) <i>According to the 1997 Approved and Adopted Fairland Master Plan</i>	4.6
Max. Number of Dwelling Units	10
TDRs	2
Green Area (% of GTA) <i>TDR/optional method, 59-C-1.395</i>	36.3% (35,235 square feet)
Min. Lot Area (square feet) <i>R-60/MPDU, 59-C-1.625(a)(1)</i>	4,208
Min. Building Setbacks (feet) [See BRL setbacks chart below]	
<i>Adjoining property PD, 59-C-7.15(b)(2)</i>	33
Accessory Structures Setbacks (feet)	
<i>From rear lot line</i>	5
<i>From side lot line</i>	5
Max. Building Height (feet) <i>See building height chart on plans for specific building heights</i>	40

B.R.L. SETBACKS			
Lot No.	Front	Side	Rear
1	20'	7'0'	30'
2	20'	5'4'	10'
3	20'	8'5'	0'
4	20'	0'16'	8'

5	20'	16'/0'	8'
6	20'	5'/5'	8'
7	10'	4'/0'	5'
8	10'	4'/10'	8'
9	10'	8'/10'	8'
10	10'	5'	4'

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

a. Buildings and Structures

The ten one-family detached houses are oriented towards an internal cul-de-sac, which gives an inward focus to this community. They are located on the northern side of the cul-de-sac and wrap around the western side. Building frontage and access to Carter's Grove Drive to the north is not possible due to an approximately 30-foot wide strip of land that separates the Subject Property from the public street. The two buildings located on Old Columbia Pike will have adequate architectural treatment on the façade fronting the road. The location of buildings is adequate, safe, and efficient.

b. Open Spaces

This zone does not have an open space requirement; instead it has a minimum green area requirement of 35 percent of the gross tract area. The Site Plan meets the green area requirements by providing 36.3 percent mostly located along the northern and western edge of the Property. These areas enhance the development by creating opportunities for landscaping and screening. The open space provided is safe, adequate, and efficient.

c. Landscaping and Lighting

The landscaping consists of a variety of shade trees along the northern edge of the Property, street trees along the perimeter of the cul-de-sac, and a variety of deciduous and evergreen shrubs as foundation plantings. In addition to aesthetic and environmental purposes, the landscaping also serves screening purposes especially along the northern and eastern edges of the Property where the backyards face the roads. The cul-de-sac island will be planted with low-growing shrubs and groundcover, which

add pervious surface and improve the appearance of the cul-de-sac. The landscaping provided is safe, adequate, and efficient.

The lighting plan consists of colonial post-top, semi-cutoff light fixtures with fiberglass poles with a total height of 14 feet. These lights are located along the perimeter of the cul-de-sac to create enough visibility and to provide safety but not so much as to cause glare on the adjacent roads or properties. The light fixtures approved provide adequate, safe, and efficient site illumination.

d. Recreation Facilities

The development is not subject to the Recreation Guidelines as it has less than 25 single-family homes.

e. Vehicular and Pedestrian Circulation

Frontage and access to Carter's Grove Drive to the north is not possible due to an approximately 30-foot wide strip of land owned by the Manors of Paint Branch Homeowner's Association that separates the Subject Property from the public street. Since March 2005, the Applicant has made multiple attempts to gain access across the strip to serve the lots, or to purchase the strip of land, but these were all rejected by the Manors of Paint Branch Homeowner's Association.

Both pedestrian and vehicular circulation systems rely on a single access point to the Property off Old Columbia Pike. Access is provided via Conley Court, a tertiary residential street ending in a cul-de-sac, with a 4-foot wide sidewalk. All shared driveways will be included within an access and utility easement.

Pedestrian access from the sidewalk on Old Columbia Pike helps to better integrate this site into the surrounding area. Pedestrian safety is enhanced by several improvements, which include the creation of an approximately 12-foot wide tree panel between the curb and the sidewalk along Old Columbia Pike extending from Carter's Grove Drive to Tree Top Lane; the provision of handicapped ramps at intersections/driveways; the relocation of the bus shelter; and the provision of a crosswalk on Old Columbia Pike across from the relocated bus shelter. The pedestrian and vehicular circulation systems are adequate, safe, and efficient.

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

The residential development is compatible with the adjacent uses in that it provides detached housing which will increase the housing options in a master plan area where two-thirds of the existing units were attached units or apartments. The unit type, density, and building height are compatible with the adjoining community. Furthermore, the height and massing of the buildings is consistent with the compatibility provisions of the PD zone.

The landscaping on the open space area at the northern edge of the Property will add privacy to the backyards of the units which will increase compatibility between this development and the adjoining communities. Similarly, the landscaping along the Old Columbia Pike frontage will buffer and screen the backyards of Lots 9 and 10 from the existing road and the future interchange right-of-way of US 29/Tech Road and Industrial Parkway.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

A Natural Resources Inventory/Forest Conservation Plan (NRI/FSD), No. 420060200, was approved in August 2005. A Preliminary Forest Conservation Plan was approved with conditions as part of the approval of the Preliminary Plan on February 14, 2008. Per the Final Forest Conservation Plan, the entire site will be cleared and graded, and the 0.33 acres of required afforestation will be met by creating tree cover through the planting of street trees and landscape trees on the site.

The stormwater management concept consists of a waiver of onsite channel protection requirements due to the proximity of the existing Rolling Acres Regional Pond and on-site water quality control and onsite recharge via construction of a Bio Filter.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter and incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this Resolution is JUN 24 2009 (which is the date that this Resolution is mailed to all parties of record); and

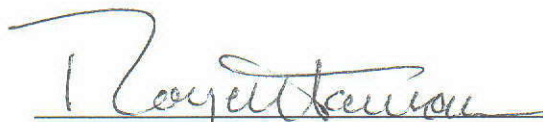
JUN 24 2009

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, Alfandre, and Cryor voting in favor of the motion, and Commissioner Presley absent, at its regular meeting held on Thursday, June 18, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board