

AUG 20 2010



## MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 09-80

Site Plan No. 82002021A

Project Name: Montrose Parks

Hearing Dates: July 9, 2009 and reconsidered on July 22, 2010

### MONTGOMERY COUNTY PLANNING BOARD

#### RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on January 7, 2008, Montrose Park, LLC ("Applicant"), filed a site plan amendment application designated 82002021A, Montrose Parks (the "Amendment") for approval of the following modifications:

- Modifications to ratify as-built conditions that deviate from the Certified Site Plan:
  - 1) Reverse (mirror) units on recorded Lots 90 and 95 (previously designated in the site plan as Lots 6 and 11) to depict as-built conditions.
  - 2) Revise lot numbers to reflect Record Plat designations.
  - 3) Update color, style, and pattern of sidewalk pavers.
  - 4) Install sidewalk pavers on crushed stone/sand base rather than set on concrete.
  - 5) Install pavers on driveways rather than concrete.
  - 6) Revise curb and gutter detail to show rolled/mountable curb.
  - 7) Delete site furnishings from the plans.
  - 8) Revise style of board-on-board fence.
  - 9) Update landscape plan to reflect as-built conditions and to delete plants previously depicted on individual lots in private ownership.
  - 10) Delete street light pole/fixture in front of Lot 86.
  
- Modifications at the request of Staff:
  - 11) Record on the plat Category I and Category II Conservation Easement boundaries and locations of demarcation signage.
  - 12) Provide additional native plantings (understory shrubs and trees) on the western property line to create equivalent canopy coverage as approved by the original site plan.

Approved as to  
Legal Sufficiency:

*Christina Sorenson* 7/15/10

8787 Georgia Avenue, N.C. Planning Board, Department 20010 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

- 13) Install concrete pavers on the triangular median island outside the public right-of-way at the intersection of Montrose Road and Montrose Place.
  - 14) Stripe parking spaces and loading/turn-around area.
  - 15) Add Offsite Stream Improvement Plan as approved by the Department of Permitting Services to the certified site plan set.
- Modifications to include additional site plan elements not included in the Certified Site Plan:
- 16) Add ground mounted entrance signs;
  - 17) Add equipment covers on Units at recorded Lots 89 and 100 (formerly Lots 1 and 16); and
  - 18) Change style of street lights from one to three light fixtures per pole.

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staff of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated June 25, 2009, setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on July 9, 2009, Staff presented the Amendment to the Planning Board at a public hearing on the Amendment (the "Hearing") where the Planning Board heard testimony and received evidence submitted for the record on the Amendment; and

WHEREAS, on July 9, 2009, the Planning Board approved the Amendment subject to conditions on the motion of Commissioner Presley, seconded by Commissioner Cryor, with a vote of 4-0, Commissioners Cryor, Hanson, Presley, and Robinson voting in favor and Alfandre absent; and

WHEREAS, MCPB Resolution No. 09-80 was adopted by the Board and mailed on August 4, 2009; and

WHEREAS, Staff filed a reconsideration request on June 21, 2010<sup>1</sup> for the limited purpose of amending Condition No. 3a of the site plan resolution; and

WHEREAS, on June 24, 2010, the Planning Board granted a reconsideration of the site plan resolution for the limited purpose of amending Condition No. 3a and allow for the amendment to occur as a consent agenda item, on the motion of Commissioner Presley, seconded by Commissioner Dreyfuss, with a vote of 4-0, Commissioners

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<sup>1</sup> In accordance with Rule 4.12.1 of the Planning Board's Rules of Procedure, Vice Chair Wells-Harley waived the 10 day filing deadline for the Request for Reconsideration based on the finding that the Applicant's inability to perform Condition No. 3a was good cause to warrant such Reconsideration.

Alfandre, Dreyfuss, Presley, and Wells-Harley voting in favor and one seat being vacant.

WHEREAS, following review and analysis of the proposed modification by Staff, Staff issued a memorandum to the Planning Board dated July 15, 2010, setting forth its analysis and recommendation for approval of the revised Condition No. 3a to keep the Category I Conservation Easement in the stream buffer above the weir and to change the requirement for below the weir to a Category II Conservation Easement, and the Category I Conservation Easement is setback from the curb and parking areas to the east to allow the HOA to continue mowing and maintaining this area including the existing plant material; and

WHEREAS, on July 22, 2010, Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Reconsideration Hearing"); and

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board hereby APPROVES the Amendment, subject to the following conditions<sup>2</sup>:

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan No. 120010220 as listed in the Planning Board Resolution dated August 28, 2001 unless amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT conditions, and DPS stormwater conditions.

2. Site Plan Conformance

The proposed development must comply with the conditions of approval for Site Plan No. 820020210 as listed in the Planning Board Resolution dated March 11, 2002, or as amended by this Amendment. Consistent with condition 3.b.iii of the original Site Plan Resolution, the Site Plan Enforcement Agreement is still in effect for the enforcement of the off-site improvements in conjunction with a bond posted with M-NCPPC by the Applicant to cover proper installation and maintenance of the referenced improvements, including plantings, for a period of two years from the installation. Any bond posted with M-NCPPC will not need to cover installation and maintenance of improvements specifically covered by bonds posted with other governmental agencies.

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<sup>2</sup> In accordance with the Rules of Procedure of the Planning Board adopted March 2007, if the Board votes to reconsider a matter, the reconsidered Resolution is void (Rule 4.12.2). Therefore, this Resolution must restate all the findings and conditions of MCPB Resolution No. 09-80, whether or not they are part of the reconsideration.

### 3. Stream Buffer Enhancement

The Applicant must satisfy all conditions prior to approval of the certified site plan.

- a. Record on the plat a Category I Conservation Easement over the stream buffer area above the weir, and a Category II Conservation Easement over the stream buffer area below the weir as shown on the certified site plan.
- b. Show locations of demarcation signage on the certified site plan.
- c. Amend standard language of the Category I Conservation Easement to allow for proper maintenance of storm water management/drainage structures within the Easement.
- d. Show removal of dead trees within the onsite stream restoration area, with stumps left intact.
- e. Provide a minimum of 6 native replacement trees to fill voids in the canopy. Two of these trees must be *Taxodium distichum* (Bald cypress).
- f. Provide a minimum of 27 native understory plantings in the onsite stream restoration area.
- g. Obtain approval from the Montrose Parks HOA to record the Easement.

### 4. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated April 30, 2001, unless amended and approved by the Montgomery County Department of Permitting Services.

### 5. Site Design

- a. Stripe the parking spaces and loading/turn-around area.
- b. Install concrete pavers on the triangular median island at the intersection of Montrose Road and Montrose Place unless prohibited by the Department of Permitting Services and/or Department of Transportation.
- c. Modify wing walls on Lots 89 and 100 (formerly Lots 1 and 16) as depicted on the "entrance detail."

### 6. Development Program

The Applicant must construct the proposed 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. Construction of all modifications approved by this Amendment must be started within 30 calendar days of the date that this Resolution is mailed to all parties of record.
- b. A development program must be provided on the certified site plan indicating a completion date.

7. 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 approval or 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. Ensure consistency off all details and layout between site plan and landscape plan.
  - d. Revise plant list to reflect correct quantities of plantings on the landscape plan.
8. Applicant will pay the sum of \$16,000 to the Montrose Parks HOA within 30 days of the mailing of the limited site plan amendment Resolution.<sup>3</sup>

BE IT FURTHER RESOLVED, that the Planning Board adopts the Staff's recommendation and analysis set forth in the Staff Report and FINDS that the Amendment is consistent with the provisions of § 59-D-3.7 of the Zoning Ordinance and that the Amendment does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in connection with the originally approved site plan; and

BE IT FURTHER RESOLVED that all site development elements as shown on Montrose Parks drawings stamped by the M-NCPPC on June 11, 2009, shall be required, except as modified by the above conditions of approval; and

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

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

~~AUG 20~~ <sup>2010</sup> BE IT FURTHER RESOLVED, that the date of this written Resolution is \_\_\_\_\_ (which is the date that this Resolution is mailed to all parties of record); and

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

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<sup>3</sup> The Applicant has complied with this condition as of the date of this Resolution. No further action is required.

written Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules)<sup>4</sup>.

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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 Presley, seconded by Commissioner Wells-Harley, with Chair Carrier and Commissioners Wells-Harley, Alfandre, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, July 22, 2010, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board

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<sup>4</sup> This Resolution is the result of reconsideration by the Planning Board of MCPB Resolution No. 09-80 for the limited purpose of revising Condition No. 3a; therefore, it is the only issue appropriate for appeal in this matter.