

SEP 14 2009



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 09-95
Site Plan No. 820080190
Project Name: Batchellors Forest
Date of Hearing: July 30, 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 February 7, 2008, Oxbridge Development at Batchellors Forest, LC ("Applicant"), filed an application for approval of a site plan for 37 lots including 32 one-family detached dwelling units and 5 one-family attached MPDUs ("Site Plan" or "Plan") on 93.64 acres of RNC-zoned land, located on Batchellors Forest Road approximately 3,000 feet south of the intersection with Doctor Bird Road ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820080190, Batchellors Forest (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 16, 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 July 30, 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 July 30, 2009 the Planning Board approved the Application subject to conditions on the motion of Commissioner Alfandre; seconded by

Approved as to
Legal Sufficiency:

Christina Sonent 8/7/09

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Commissioner Cryor; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson and Wells-Harley voting in favor, and Commissioner Presley 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. 820080190 for 37 lots including 32 one-family detached dwelling units and 5 one-family attached MPDUs, on 93.64 gross acres in the RNC zone, subject to the following conditions:

Conformance with Previous Approvals

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120060850 as listed in the Planning Board Resolution dated January 11, 2008 and the Amended Resolution dated July 30, 2009. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT [now DOT] conditions, and DPS stormwater conditions.

Environment

2. Forest Conservation & Tree Save

The development must comply with the conditions of approval of the Final Forest Conservation Plan. The Applicant must comply with the conditions of approval from M-NCPPC Environmental Planning in the memorandum dated July 15, 2009.

3. Stormwater Management

The development is subject to Stormwater Management Concept approval conditions dated July 2, 2007 unless amended and approved by the Montgomery County Department of Permitting Services.

Parks, Open Space, & Recreation

4. M-NCPPC Department of Parks

- a) Applicant to convey to M-NCPPC the approximately 17.1 acre portion of Subject Property designated as Parcel A that lies east of Batchellors Forest Road, for use as a local park consistent with the Olney Master Plan. Land to be conveyed to M-NCPPC in fee simple by deed acceptable to M-NCPPC Staff, at the time of record plat. Property to be marked with boundary posts in locations acceptable to Department of Parks Staff, and to be conveyed free of any trash and unnatural debris.

- b) Applicant to place a sign on the dedicated parkland, acceptable to M-NCPPC Department of Parks Staff, that identifies it as parkland that will include active recreation amenities.

5. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant shall provide verification to M-NCPPC Staff prior to issuance of the 20th building permit that the Applicant's recorded Homeowners Association Documents are incorporated by reference in the Covenant.

6. Rural Open Space

A Rural Open Space Easement must be recorded in the Montgomery County Land Records for the 65.6-acre area designated as private Rural Open Space (Parcel A: Blk B; Parcel C: Blk A; Lot 15, Blk A, as shown on the Certified Site Plan). Reference to the recorded easement is to be noted on the record plat(s). The Greater Sandy Spring Green Space Inc. will be a co-holder with M-NCPPC of this Easement.

7. Recreation Facilities

The Applicant must provide two picnic/sitting areas, an open play area II, a pedestrian system, nature trails, and natural areas.

8. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to picnic/sitting areas, open play area II, pedestrian system, nature trails, and natural areas.

Transportation

9. Transportation

Provide typical driveway apron treatment at Street B for the shared driveway leading to Lot 19 and Lot 20.

10. Road Signs

- a) Install a stop sign on Old Vic Boulevard at Batchellors Forest Road and on the Farquhar Middle School driveway at the direction of the Department of Permitting Services and Montgomery County Public Schools by the time that the new four-way intersection opens to traffic.
- b) Install a stop sign on the overlength cul-de-sac (designated as Street B on the plans) at Batchellors Forest Road at the direction of the Department of Permitting Services.

Density & Housing

11. Moderately Priced Dwelling Units (MPDUs)

- a) The Applicant is receiving a 22 percent density bonus for providing 15 percent MPDUs on-site.
- b) Elevations for MPDU units must be provided to DHCA prior to Certified Site Plan approval.
- c) MPDU construction schedule to be approved by DHCA prior to Certified Site Plan approval.
- d) The MPDU Agreement to Build shall be executed with DHCA prior to the release of any building permits in accordance with Chapter 25A.
- e) If the decision for Civil Action No. 292245-V regarding the number of MPDUs is reversed upon appeal, the Applicant must increase the number of MPDUs from 5 to 6 and may meet this requirement by replacement of a one-family detached unit with a one-family attached unit through the minor site plan amendment (consent item) process.

Miscellaneous

12. Architecture

Provide architectural treatment of the two groups of MPDU townhouses to have an outward appearance of one-family detached units consistent with the rest of the development.

13. Public Schools

The Applicant must construct a pedestrian connection from the terminus of Old Vic Boulevard at Batchellors Forest Road to the existing sidewalk on the William H. Farquhar Middle School site in an alignment as shown on the drawing on Appendix D of the Staff Report.

Site Plan

14. Site Design

- a) Relocate Lot 14 behind Lot 21 and next to Lot 19 with access off Street B so that it is part of this residential cluster.
- b) Shorten the shared driveway for Lots 19 and 20 by locating it directly off the cul-de-sac on Street B.
- c) Eliminate the natural surface path north of Old Vic Boulevard.
- d) Ensure that Lot 23 meets the minimum of 25 feet of lot frontage on the public street.

15. Landscaping

- a) Provide additional plantings in front of the two individual lots fronting on Batchellors Forest Road (Lots 10 & 15).
- b) Provide additional plantings on the side of Lot 9 and 16 that are visible from Batchellors Forest Road.
- c) Provide additional plantings in the rear of Lots 1 through 9 and the Rural Open Space area immediately adjacent to them to create naturalistic clumps of trees and vegetation, which will help screen the houses from Batchellors Forest Road.

16. 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) 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.
- b) The development program must provide phasing for installation of on-site landscaping and lighting.
- c) Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- d) On-site amenities including, but not limited to benches, play structure, open play area, and natural areas must be installed prior to release of the 30th building permit.
- e) Community-wide pedestrian pathways, including the natural surface trail between the two residential clusters and the sidewalks along the public streets, must be completed prior to issuance of the 30th building permit.
- f) Onsite landscaping associated with each building shall be completed as construction of each building is completed.
- g) Provide each section of the development with necessary roads.
- h) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

17. 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 final forest conservation approval, 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) Modify data table to reflect development standards enumerated in the Staff Report.
- d) Correct building restriction line (BRL) on individual lots.
- e) Ensure consistency of all details and layout between Site Plan and landscape plan.

BE IT FURTHER RESOLVED that all site development elements as shown on Batchellors Forest drawings stamped by the M-NCPPC on May 15, 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 as set forth in the Staff Report, 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 site.

2. *The Site Plan meets all of the requirements of the RNC zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The approved use is allowed in the RNC Zone and the Site Plan fulfills the purposes of the zone by preserving open land, environmentally sensitive natural resources, and rural community character. This is accomplished by providing residential development in clusters and maintaining broad vistas of open space.

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the development 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 RNC Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table for the RNC Zone, Optional Method of Development

Development Standard	Development Standards Approved by the Planning Board and Binding on the Applicant
Min. Area of Development (acres) 59-C-9.575(a)	93.64
Density (du/ac) Per Olney Master Plan (p.28)	0.39 ^(a)
MPDUs	15%
Max. No. of Dwelling Units	37
One-family detached units	32
One-family attached units (MPDUs)	5
Min. Lot Area (sq. ft.)	
One-family detached units	10,700
One-family attached units (MPDUs)	3,500
Min. Setback from Street (feet)	20
Min. Yard Setback (feet)	
Side yard	8
Side yard, abuts lot not developed under the optional method ^(b)	20
Rear yard	30
Rear yard, abuts lot not developed under the optional method ^(c)	35
Min. Lot width (feet)	
One-family detached unit	25
One-family attached units (MPDUs)	20
Max. Building Height (feet)	35
Max. Lot Coverage (%)	
One-family detached unit	35
Accessory Structures Setbacks (feet)	
Rear	5
Side	5
Street	60
Rural Open Space	69.8%
Common Open Space (sq. ft.)	82,023

- (a) The approved density reflects a density bonus for providing 15 percent MPDUs on-site.
- (b) Lot 1, Blk B adjacent to RC Zone; Lot 27, Blk A adjacent to RE-2
- (c) Lots 24-27, Blk A adjacent to RE-2

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 buildings and structures are located in two clusters at a lower elevation away from Batchellors Forest Road. The elevation and location of the houses have been sited appropriately to maintain broad vistas of open space and to preserve the rustic character of the Batchellors Forest Road as envisioned by the Master Plan. The development also responds to the natural resources onsite and takes advantage of the existing forest line to screen some units from the road. The dwellings in the cluster with 19 one-family detached houses and 3 one-family attached houses are located along the proposed extension of Old Vic Boulevard. Some of the houses face an area of Common Open Space, which strengthens it as a gathering place for the residents of the neighborhood. The other cluster with 11 one-family detached houses and 2 one-family attached houses is located close to the southern property edge and is accessed via an over-length cul-de-sac off Batchellors Forest Road. Two additional one-family detached houses are located along Batchellors Forest Road with setbacks from the road that are similar to those of the existing houses. The Planning Board finds that the locations of the buildings and structures are adequate, safe and efficient, while maintaining the rural character of the area and preserving environmentally sensitive natural resources.

b. Open Spaces

The open space provided is divided into Common Open Space, intended for common use by the residents of the neighborhood, and Rural Open Space, intended to protect rural features and other sensitive areas and to maximize common boundaries with Rural Open Space on adjacent tracts. The most significant Common Open Space is centrally located, bordered by a loop road with houses, and has amenity features, making it a true gathering point for the neighborhood residents. The other areas of Common Open Space contain surface features, such as storm water management facilities, which are allowed by the Zoning Ordinance, but make them less usable for the community.

The approximate 65 acres of Rural Open Space are located primarily along Batchellors Forest Road, in order to maintain the existing broad vistas of open space and to preserve the rural character of this road. Additional areas include the stream valley and existing forest which protect these environmentally

sensitive natural resources. The approximate 17.1 acres of Rural Open Space on the east side of Batchellors Forest Road will be conveyed to M-NCPPC for use as a local public park for active recreation purposes consistent with the Olney Master Plan. The Planning Board finds that the open space provided satisfies the provisions of the zoning and is safe, adequate and efficient in addressing the needs of the residential use and the recommendations of the Master Plan.

c. Landscaping and Lighting

The landscaping on individual lots consists of a traditional foundation planting area for the house with shade trees that provide scale to the houses. The remaining landscaping screens the storm water management facilities and defines the areas where the public amenities are located. The areas of Rural Open Space adjacent to Batchellors Forest Road are integral to the character of the road and will remain open without plantings except for the edges abutting the new houses where naturalistic clumps of trees will be planted to screen the houses. Street trees and lighting within the public roadway are provided along the two streets to enhance the pedestrian environment. The lighting provided will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. The Planning Board finds that the landscaping and lighting are adequate, safe, and efficient.

d. Recreation Facilities

The recreation facilities provided include two picnic/sitting areas, an open play area II, a pedestrian system, nature trails, and natural areas. This development meets all the recreation requirements onsite through these facilities, which satisfy the 1992 M-NCPPC Recreation Guidelines. The Planning Board finds that the facilities being provided adequately and efficiently meet the recreation requirements of this development, while providing safe and accessible opportunities for recreation.

e. Vehicular and Pedestrian Circulation

The site is accessed from the realigned Old Vic Boulevard Extended, a through road that terminates at Batchellors Forest Road opposite one of the William H. Farquhar Middle School entrances, as recommended by the Master Plan; and via an overlength cul-de-sac from Batchellors Forest Road. The layout of the two public streets provides safe, adequate and efficient access to the developable portions of the Property, while allowing for the preservation of forest, environmentally sensitive areas, and open space.

The pedestrian circulation system consists of 5-foot concrete sidewalks along the two public streets, an 8-foot asphalt path along the Old Vic Boulevard Extended, and a natural surface pedestrian path connecting the two residential clusters.

Because Batchellors Forest Road is a designated rustic road, it is precluded from any changes or improvement that may alter the character of the road, including the construction of sidewalks. The pedestrian circulation system provides safe, adequate and efficient pedestrian access within the site and to the surrounding area, including to the William H. Farquhar Middle School and Our Lady of Good Counsel High School, which are both within walking distance of the site. Intersection improvements at Old Vic Boulevard Extended and Batchellors Forest Road, including crosswalks, will improve pedestrian safety in accessing the Farquhar Middle School. The Planning Board finds that the pedestrian and vehicular circulation is safe, adequate, and efficient.

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

The approved residential use is compatible with the adjacent and confronting residential and institutional uses. This development groups the units into two residential clusters, which minimizes the fragmentation of forest, the impacts on environmentally sensitive areas, and the access points onto Batchellors Forest Road. The two clusters are located away from this road so as to be only partially visible in order to preserve exceptional vistas of open fields, which is a central element to the rustic character of Batchellors Forest Road.

The development provides a diversity of lot sizes ranging from 3,599 square feet for a townhouse MPDU to 426,250 square feet on Lot 15, a conservation lot which includes a significant portion of Rural Open Space. The majority of the lots fall within the 19,000-23,999 square feet range. In addition, the development also provides diversity in house sizes ranging from a minimum of 888 square feet ground coverage to a maximum of 4,472 square feet ground coverage. The Planning Board finds that the diversity in lot and house sizes is compatible with the surrounding development and rustic character of this area, and is consistent with the purpose and intent of the zone.

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.*

The Final Forest Conservation Plan (FFCP) will clear 1.57 acres of forest, preserve 19.53 acres, and plant 6.84 acres of forest. Where forest retention or planting occurs on HOA land, a Category I conservation easement will be placed over the area to provide permanent protection. Forest preservation or planting on land that will be dedicated as M-NCPPC parkland will not have a conservation easement. The Site Plan, as amended by Staff's conditions of approval, will comply with the County Forest Conservation Law.

The stormwater management concept consists of on-site channel protection measures via construction of three detention facilities; on-site water quality control via construction of six Montgomery County Sand Filters (MCSF's); and onsite recharge via open section roadway swales and other nonstructural measures such as rooftop disconnection.

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 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 SEP 14 2009 (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 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 Wells-Harley, seconded by Commissioner Presley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, September 10, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board