



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 09-143
Site Plan No. 820070250
Project Name: Mainhart Property
Date of Hearing: November 12, 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 May 18, 2007, Magruder Reed at Woodward Hall LLC ("Applicant"), filed an application for approval of a site plan for 32 townhouse dwelling units including 12.5 percent MPDUs ("Site Plan" or "Plan") on 3.28 acres of RT-10-zoned land, located in the southwest quadrant of the intersection of Washington Grove Lane and Mid-County Highway ("Property" or "Subject Property"); and

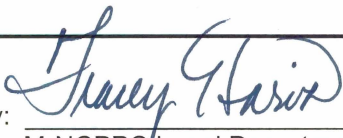
WHEREAS, Applicant's site plan application was designated Site Plan No. 820070250, Mainhart Property (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated October 29, 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 November 12, 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

Approved as to
 Legal Sufficiency:



 M-NCPPC Legal Department

WHEREAS, on November 12, 2009, the Planning Board approved the Application subject to conditions on the motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Alfandre, Hanson, Presley, and Wells-Harley voting in favor and with one seat being vacant.

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. 820070250 for 32 townhouse dwelling units including 12.5 percent MPDUs, on 3.28 gross acres in the R-10 zone, subject to the following conditions:

1. Schematic Development Plan Conformance
The development must comply with the binding elements of the Schematic Development Plan Amendment (SDPA) 09-2, which was adopted on June 9, 2009, with the Resolution No. 16-992.
2. Preliminary Plan Conformance
The development must comply with the conditions of approval for Preliminary Plan No. 120070730.
3. Forest Conservation
The Applicant must conform with the conditions of approval as stated in the Environmental Planning memorandum dated September 16, 2009.
4. Landscaping
Provide additional shrubs to enhance the screening of Lots 26 & 27 from the one-family neighbors on Woodward's Store Road.
5. Lighting
 - a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
 - b. On-site street downlighting fixtures must be full cut-off fixtures;
 - c. Illumination levels, excluding streetscape light fixtures, must not exceed 0.5 footcandles (fc) at any property line abutting county roads.
 - d. The height of the light poles shall not exceed 14 feet excluding the mounting base.
6. Performance Bond and Agreement
The Applicant is subject to the following provisions for surety as described in Section 59-D-3.5 of the Montgomery County Zoning Ordinance and Site Plan approval:
 - a. The Applicant must provide a cost estimate from the landscape architect or landscape contractor indicating the installed costs of site plan elements, such as, but not limited to landscaping, lighting, recreation facilities, and site furnishings.

The cost estimate should include a 10% inflation factor for the site plan elements to account for changes in price and materials and modifications to the approved plans.

- b. The Applicant must submit a Performance Bond or other satisfactory form of surety as approved by M-NCPPC to cover the installed costs of site plan elements, such as, but not limited to landscaping, lighting, recreation facilities, and site furnishings as shown and described in the cost estimate.
- c. The Applicant must execute an agreement for site plan elements in conjunction with the performance bond indicating the Applicant's agreement to install, construct and maintain the site plan elements.
- d. The Bond or other form of surety must be submitted along with the agreement prior to the release of the first building permit.

7. Stormwater Management

The development is subject to Stormwater Management Concept approval conditions dated March 18, 2009, unless otherwise amended and approved by the Montgomery County Department of Permitting Services.

8. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant must provide verification to M-NCPPC Staff prior to issuance of the 30th building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

9. Recreation Facilities

The Applicant must provide three (3) seating areas, a pedestrian system, and natural area.

10. Moderately Priced Dwelling Units (MPDUs)

- a. The development must provide a minimum of 12.5 percent MPDUs on-site in accordance with Chapter 25A of the Montgomery County Code.
- b. The Applicant must execute an Agreement to Build pertaining to the construction of on-site MPDUs with the Department of Housing and Community Affairs prior to the issuance of any building permits.
- c. The Applicant must construct a minimum of one (1) MPDU with the completion of the first 25% of the units in the project, construct a minimum of two (2) MPDUs with the completion of 50% of the units in the project, and must construct all of the MPDUs with the completion of the 26th unit in the project.

11. Development Program

The Applicant must construct the development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC

Staff prior to approval of the Certified Site Plan. The Development Program shall include a phasing schedule as follows:

- a. 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.
- 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 development program must provide phasing for installation of on-site landscaping and lighting.
- d. Community-wide and local pedestrian pathways, hiker-biker trail and recreation facilities, including sitting areas, mulch path and nature area with gazebo, must be completed prior to issuance of the 30th building permit.
- e. Landscaping, lighting and recreation facilities associated with each townhouse shall be completed as construction of each unit is completed but no later than 6 months after the Use and Occupancy Permit.
- f. Provide each section of the development with necessary roads.
- g. The development program must provide phasing of pre-construction meetings, dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

12. Certified Site Plan

Prior to Certified Site Plan approval the following revisions shall be included 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. Provide a list of equivalent trees in the landscape plan Plant Schedule to be approved by Site Plan Review Staff, and add the note "In the event that any of the species listed in the plant schedule are not available, select species from the alternative plant list. Contractor to ensure that the replacements are of equivalent sizes."
- d. Modify data table to reflect all development standards enumerated in the Staff report.
- e. Provide details of light fixtures showing full cut-off devices and mounting base.
- f. Provide detail of railings on top of the retaining wall.
- g. Provide detail of retaining walls with materials labeled.
- h. Ensure consistency off all details and layout between site plan and landscape plan.

BE IT FURTHER RESOLVED, that all site development elements as shown on Mainhart Property drawings stamped by the M-NCPPC on August 21, 2009, and October 26, 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, 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.*

The development conforms to all non-illustrative elements of the Schematic Development Plan Amendment 09-2 for Mainhart Property, which was certified on July 15, 2009 (SDPA). The SDPA reflects the deletion of former Binding Element No. 5, which prevented the Planning Board from making the required findings for pedestrian access and circulation, and the addition of the Commitments to be Implemented at Site Plan. The development conforms to the binding elements which seek to protect the existing character of Woodward's Store Road, protect existing specimen trees, and reduce noise on the property. The Commitments focus on protecting the existing character of Woodward's Store Road by providing specific recommendations on buildings orientation, landscaping, and parking. As further described below, the development satisfies these Commitments by orienting the buildings towards the internal private road rather than Woodward's Store Road; creating a landscape buffer that screens the development from the road; and, as agreed between the adjacent neighbors at Woodward's Store Road and the Applicant, the no-parking signs for Woodward's Store Road will only be requested to DOT if it becomes necessary.

2. *The Site Plan meets all of the requirements of the R-10 zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

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 RT-10 Zone. With respect to building height, setbacks, and density, the development is in accord with all the minimum and maximum

standards allowed. With respect to green space the development provides 60 percent allowing for a greater amount of permeable surface and landscaped open space.

The proposal also meets the design requirements for the townhouse rows as described in section 59-C-1.722 of the Zoning Ordinance. The maximum number of townhouses allowed in a group is eight; and three continuous, attached townhouses is the maximum number permitted with the same front building line. Variations in the building line must be at least 2 feet. The proposal shows five rows of townhouses, with none exceeding eight units. All the groups show the required two-foot variation in their front building lines. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

Development Standard	Development Standards Approved by the Planning Board and Binding on the Applicant
Min. Tract Area (square feet) 59-C-1.731(a)	142,947 (3.28 acres)
Max. Density (du/acre) 59-C-1.731(b)	9.8
Max. No. of Units	32
MPDUs	12.5% (4 MPDUs)
Min. Building Setbacks (feet)	
Land zoned one-family detached 59-C-1.732(a)	30
Public street, 59-C-1.732(b)	25
Adjoining lot, 59-C-1.732(c)	
- Rear	10
- Side	20 ^(a)
Max. Building Height (feet) 59-C-1.733	
- Main building	35
- Accessory building	25
Max. Building Coverage (% of lot) 59-C-1.734(a)	19 (26, 800 SF)
Min. Green Area (% of lot) 59-C-1.734(b)	60 (86, 095 SF)
Min. Parking Spaces 59-E-3.7	<u>92 total spaces</u> 48 garage spaces 30 driveway spaces 14 visitor spaces

(a) Only applies to end units

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 location of the buildings and structures is safe, adequate and efficient. The 32 townhouses, divided into five sticks, are located along an internal loop road, which is accessed off Washington Grove Lane. All the buildings front onto this private street, except for the easternmost row, which fronts onto Washington Grove Lane. Townhouses are oriented away from Woodward's Store Road to satisfy Commitment 1(a) and binding element no. 4 of the SDPA, which was recommended to prevent vehicular or pedestrian improvements to Woodward's Store Road.

The main structures include retaining walls and a noise attenuation fence. The retaining wall next to lot 32 will hold the existing grades and minimize impacts on the root system of the adjacent large trees to be protected. The retaining wall near the storm water management facilities will help to create more usable backyards for Lots 19-26. Along Mid-County Highway, the 6.5-foot tall noise attenuation fence, as required by binding element number 1, will provide noise reduction for the future residents.

b. Open Spaces

The open spaces provided are safe, adequate, and efficient. The main open space area is located along the southern property line where several large trees will be protected under a Category II Forest Conservation Easement. This open space will be mostly lawn with a wood chip path that connects to a seating area and a gazebo. This area functions as a gathering area for the residents with some opportunities for recreation, and it also acts as a buffer between the subject site and the properties to the south with one-family detached houses.

c. Landscaping and Lighting

The landscaping is adequate, safe and efficient while serving various purposes. It screens the noise attenuation fence, provides a buffer from the adjoining properties, adds a traditional foundation planting area for the buildings, and beautifies the open spaces. The landscaping along the noise attenuation fence consists of a mix of evergreens and ornamental trees which will screen and add interest to the fence. These plantings complement in scale the approved street trees along Mid-County

Highway. Landscaping is also used as a buffer between the subject site and the one-family detached neighborhood on Woodward's Store Road, as requested in Commitment 1(b) of the SDPA. The foundation plantings consist of a mix of deciduous and evergreen shrubs, flowering trees, ornamental grasses, and ground covers. The variety of plant material enhances the pedestrian environment and adds scale to the buildings. Throughout the various open spaces, shade and ornamental trees are provided to complement some of the existing large trees to remain.

The lighting plan consists of on-site light fixtures mounted on 14-foot poles located on the perimeter of the private street. Interior lighting will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties. The lighting provides safe, adequate and efficient illumination for the development.

d. Recreation Facilities

The recreation facilities provided are safe, adequate, and efficient. The on-site facilities consist of seating areas, natural areas and a pedestrian system. The Applicant is taking credit for offsite facilities including tennis courts, a multipurpose court, a tot lot, a play lot and a softball junior court located across Washington Grove Lane at Washington Square Park. The facilities provided and the credit taken for offsite facilities meet the 1992 M-NCPPC Recreation Guidelines.

e. Vehicular and Pedestrian Circulation

The pedestrian and vehicular circulation systems are safe, adequate, and efficient. The site is accessed via a two-way private street that connects to Washington Grove Lane. This street loops around the site and provides access to the 32 townhouses and areas of surface parking. Although a vehicular connection to Woodward's Store Road would have been desirable to improve vehicular circulation and to better integrate this site into the surrounding community, this option was precluded by binding element no. 3. Parking is located on individual lots (garage and private driveways) as well as the private street for visitors.

The pedestrian circulation system consists of sidewalks along both sides of the internal loop road that connect to the sidewalk system along Washington Grove Lane and to the mulch path on the open space to the south of the property. As a result of the recent Schematic Development Plan Amendment 09-2, the Applicant can now provide a pedestrian connection to Woodward's Store Road, which will allow pedestrian cross-

traffic between the approved development and the communities to the west. Woodward's Store Road does not have a sidewalk system and binding element number 4 precludes it from having any improvements as a result of this application. The Applicant is providing a hiker-biker trail along Mid-County Highway according to the Master Plan's recommendations.

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

The structures and use are compatible with other uses, and with existing adjacent development. The approved townhouse use is compatible with the mix of residential land uses, and the wide range of housing types, lot sizes, and ownership composition in the immediate vicinity of the site. The Woodward's Store Road community and the community to the north across Mid-County Highway are predominantly one-family detached homes. Several townhouse communities include Wedgewood, Washington Square and Hamlet North. There are also multi-family uses, such as, Emory Grove Village.

Also, the Applicant has committed through binding elements and Commitments to be Implemented at Site Plan to minimize any adverse impact from the townhouse community upon the adjacent single-family homes on Woodward's Store Road. Orienting the buildings away from Woodward's Store Road and fronting them on the private street creates a wider setback from the public road, which combined with the approved landscaping provides an enhanced buffer between the development and the adjacent one-family homes. In addition, the proposal is providing more parking than required to avoid visitors and residents of the townhouses to park on Woodward's Store Road and use the pedestrian connection to reach their destinations within the development, which was a concern raised by the neighbors at Woodward's Store Road. The neighbors and the Applicant further agreed that no-parking signs or permit-only-parking signs for Woodward's Store Road would be requested of DOT if it becomes necessary.

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 Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for the 3.28-acre site and approved by Environmental Planning Staff on March 24, 2009. There are no streams, wetlands, forests, or associated buffers on this site. This 3.28-acre project has an overall afforestation requirement of 0.54-acres. The Applicant will meet this afforestation requirement with a combination of 0.11-acres of on-site Category II FCE and the remaining

0.43-acres at an off-site location, to be determined at the time of Final Forest Conservation Plan (FFCP) approval.

This application requires a variance to the Forest Conservation Law, granted under the provisions of Section 22A-21, because it did not obtain approval of a Preliminary Forest Conservation Plan prior to October 1, 2009, and it proposes to remove 4 trees greater than 30 inches DBH. The Applicant has requested a variance to remove the trees. Based on the findings described in the resolution for Preliminary Plan No. 120070730, the variance request from the Forest Conservation Law to remove the four specimen trees is being recommended for approval.

The proposed storm water management concept approved on March 18, 2009, consists of on-site channel protection via a detention pond, on-site water quality control via a surface sand filter, pervious concrete sidewalk/parking areas and additional non-structural measures.

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 DEC 16 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).

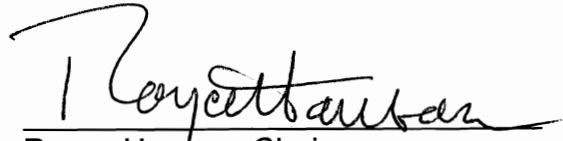
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CERTIFICATION

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 Vice Chair Wells-Harley, with Chairman Hanson, Vice Chair Wells-Harley, and Commissioner

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Presley present and voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, December 10, 2009, in Silver Spring, Maryland.

A handwritten signature in black ink, appearing to read "Royce Hanson", written in a cursive style.

Royce Hanson, Chairman
Montgomery County Planning Board