



SEP 30 2010

MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-90
Site Plan No. 820100060
Project Name: Townhouses at Small's Nursery
Date of Hearing: June 24, 2010

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 12, 2010, Small's Nursery LLC c/o The Tower Companies ("Applicant"), filed an application for approval of a Site Plan for 19 townhouse dwelling units ("Site Plan" or "Plan") on 3.11 acres of RT-10-zoned land, located on Thistlebridge Drive, approximately 500 feet west of Georgia Avenue (MD 97) ("Property" or "Subject Property"); and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820100060, Townhouses at Small's Nursery (the "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 10, 2010, 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 June 24, 2010, 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 June 24, 2010, the Planning Board approved the Application subject to conditions on the motion of Commissioner Presley, seconded by Commissioner Dreyfuss; with a vote of 4-0, Commissioners Alfandre, Dreyfuss, Presley, and Wells-Harley voting in favor, and one seat being vacant.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, N.C. Planning Commission, Department 3010 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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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. 820100060 for 19 townhouse dwelling units, on 3.11 gross acres in the RT-10 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. 120070610 as listed in the Planning Board Resolution dated February 1, 2010, unless amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DOT conditions, and DPS stormwater conditions.

Environment

2. Forest Conservation & Tree Save

The development must comply with the conditions of the approved final forest conservation plan and the conditions of the M-NCPPC Environmental Planning Division in the memorandum dated May 27, 2010. The Applicant must satisfy all conditions and requirements prior to the recording of a plat(s) or to the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.

- a) An invasive management plan must be developed for areas of retained forest to remove multi-flora rose and other non-native invasive species.
- b) A joint pre-construction meeting with the M-NCPPC Forest Conservation Inspector and Urban Forester from the Parks Department will inspect trees along the LOD adjacent to M-NCPPC parkland and determine which trees will need to be retained or removed. All tree removal on adjacent M-NCPPC parkland will be done at the direction of the Urban Forester at the Applicant's expense. Any trees that need to be removed must be replaced on park property at a rate up to 1" DBH per every 1" lost.
- c) The Applicant must place a category I conservation easement or dedicate to M-NCPPC, all areas of environmental/stream valley buffer and forest conservation. Prior to plat recordation, M-NCPPC staff must approve any amended language to easements or agreements.

3. Stormwater Management

The development is subject to Stormwater Management Concept approval conditions dated October 7, 2008, unless amended and approved by the Montgomery County Department of Permitting Services.

Parks, Open Space, & Recreation

4. M-NCPPC Department of Parks

- a) The Applicant must provide a signed 4-foot wide natural surface trail from the end of the private drive to the western property boundary that will provide access to Norbeck-Muncaster Mill Neighborhood Park.
- b) The Applicant must clearly mark with park boundary posts the border of the adjacent Norbeck-Muncaster Mill Neighborhood Park to delineate between parkland and private properties. Location of boundary posts to be coordinated with the M-NCPPC Department of Parks staff prior to the approval of the certified site plan.

5. 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 18th building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

Transportation & Circulation

6. Transportation

The Applicant must satisfy the PAMR mitigation requirements by constructing a set of handicapped ramps (one on either side of Thistlebridge Drive) and to pay \$22,000 to MC Department of Transportation prior to the release of the 14th building permit for the development.

Site Plan

7. Site Design

Mirror entrances of alternating units to create a larger planter area at the end of the steps.

8. Landscape

The Applicant must provide shade trees in the larger planter areas within the currently proposed PUE. In order to achieve this objective, the Applicant must make good faith efforts to obtain approval from the applicable utility companies. If necessary to obtain the approval, the Applicant must offer an alternative design for the PUE, including but not limited to conduit usage, smaller width PUE, relocation of PUE, and/or placement of utilities in the road. In the event that the utility companies do not support trees within the PUE or an alternative design for the PUE by certified site plan, then the Applicant must provide shrubs in the planter areas.

9. Lighting

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

10. Landscape Surety

The Applicant shall provide a surety (performance bond) in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a) The amount of the surety shall include plant material, and on-site lighting within the development. Surety to be posted prior to issuance of first building permit and shall be tied to the development program.
- b) Provide a cost estimate of the above materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c) Completion of plantings to be followed by inspection and bond reduction. Inspection approval starts the 1 year maintenance period and bond release occurs at the expiration of the one year maintenance period.
- d) Provide a Site Plan Surety & Maintenance Agreement for the above materials and facilities that outlines the responsibilities of the respective parties and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

11. 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 street construction is completed. Street tree planting may wait until the next growing season.
- b) On-site landscaping must be installed within six months after the issuance of the use and occupancy permit for the last building permit.
- c) On-site amenities including, but not limited to, sidewalks and the natural surface trail must be installed prior to release of the 14th building permit.

- d) 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.
- e) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, forest conservation, trip mitigation, and other features.

12. 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.

BE IT FURTHER RESOLVED, that all site development elements as shown on Townhouses at Small's Nursery drawings stamped by the M-NCPPC on April 22, 2010, 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.*

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 RT-10 zone and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The approved use is allowed in the RT-10 Zone and the site plan fulfills the purposes of the zone by providing a suitable site for townhouses in an area that is designated for residential developments at the densities allowed in the RT zones. 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 evidence and testimony of record, that the Application meets all of the applicable requirements of the RT-10 Zone. With respect to density and building coverage, the Site Plan is well under the maximum standards allowed since a large portion of the property falls within environmental buffer areas, which will be protected. The development will provide 71 percent of the lot as green area allowing for a greater amount of permeable surface and landscaped open space. The building height and setbacks are under all the maximum standards allowed.

The Site Plan 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 Site Plan shows three 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 Standards	Approved by the Planning Board and Binding on the Applicant
Min. Tract Area (square feet) 59-C-1.731(a)	135,470 (3.11 acres)
Max. Density (du/acre) 59-C-1.731(b)	6.1
Max. No. of Units	19
MPDUs	0
Min. Building Setbacks (feet)	
From 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)	
- Side (end unit)	10
- Rear	20

Max. Building Height (feet) 59-C-1.733	
- Main building	35 ^(a)
- Accessory building	25
Max. Building Coverage (% of lot) 59-C-1.734(a)	12
Min. Green Area (% of lot) 59-C-1.734(b)	71
Min. Parking Spaces 59-E-3.7	<u>44 total spaces</u> 19 garage spaces 16 driveway spaces 9 surface spaces

^(a) Building height measured from the average elevation of the finished ground surface along the front of the building.

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, while minimizing impacts on environmentally sensitive areas. The 19 townhouses, divided into three sticks, are located along a private street, which is accessed off Thistlebridge Drive. All the buildings front onto this private street and have rear yards facing vegetated areas.

The main structures include an entrance sign and a retaining wall. The sign, located at the intersection of the private street and Thistlebridge Drive, will serve to identify this community and contribute to the sense of arrival. The retaining wall behind lots 15-19 will limit the impacts on the environmental buffer to the north and help create more usable backyards for these units.

b. Open Spaces

The Site Plan has a significant area of forest and wetlands with associated buffers that is being protected. This area, located to the north of the property between the new townhouses and Thistlebridge Drive, effectively screens and buffers the development from the road. The green area requirement of 50 percent is far exceeded with 71 percent of the tract area to remain as green. The open spaces are safe, adequate and efficient.

c. Landscaping and Lighting

The landscaping includes shade trees along the private street, evergreens along the eastern and southern property boundaries to provide screening from the

future connector road to MD 28 when this is built, and shrubs mostly as foundation planting for the buildings. The lighting plan consists of pole-mounted light fixtures with a pole height of approximately 14 feet 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 landscape and lighting are safe, adequate and efficient.

d. Recreation Facilities

The development is not required to provide recreation facilities and amenities because this is a subdivision with less than 25 one-family homes; however, a pedestrian connection is provided from this development to the Norbeck-Muncaster Mill Neighborhood Park.

e. Vehicular and Pedestrian Circulation

Access to this townhouse development will be provided via a new private street that connects to the existing Thistlebridge Drive in such a way that minimizes environmental impacts on the wetland area. A portion of this alignment is within the ROW for the future Georgia Avenue/Norbeck Road interchange, which will be aligned through the southern section of the subject property and will include a connecting roadway between realigned Norbeck Road and Thistlebridge Drive.

Parking will be provided in garages, driveways, and surface parking spaces along the private street. Although as originally submitted the Site Plan showed 2-car garages, the garage width of 17 feet was not adequate or practical for 2 cars. Therefore, for the parking calculations, the Applicant is receiving credit for 1 parking space in the garage and 1 space on the driveway of each unit, with the exception of the corner units (units 1, 13, and 14) where the driveways are truncated. The Site Plan meets the parking requirements by accommodating two parking spaces per unit (one space in the garage, the other on the driveway – with the exception of 3 units), and an additional 9 spaces as surface parking.

Pedestrian access from adjacent sidewalks adequately and efficiently integrates this site into the surrounding area. Safety is enhanced by providing a crosswalk on Thistlebridge Drive. A lead-in sidewalk directs pedestrians to the site from Thistlebridge Drive, which has sidewalk on both sides of the roadway. The Site Plan also includes a woodchip trail with signage leading pedestrians to the M-NCPPC owned park property to the southwest of the site.

As designed, the paved area for both pedestrians and vehicles minimizes imperviousness on site and impacts on environmentally sensitive areas. The pedestrian and vehicular circulation systems are 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 townhouse development is compatible with surrounding uses, including the M-NCPPC park uses to the west, the existing Preserve at Small's Nursery subdivision to the north, commercial uses to the east and townhomes across Norbeck Road to the south. The development will have limited visibility from the surrounding roads mainly because of the existing vegetation surrounding the property and the forest to be protected on site. Screening will be enhanced along the southern and eastern property boundaries through additional landscaping provided. The building height of 35 feet is within the limits established by 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.*

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved by Environmental Planning staff on November 15, 2007 (NRI/FSD #420061500). A preliminary forest conservation plan was approved by the Planning Board on December 17, 2009 as part of Preliminary Plan No. 120070610.

There will be no other disturbance of the environmental buffers, except for the access road and stormwater management outfall. As determined at the preliminary plan approval, the development meets the Environmental Guidelines by minimizing the impact to the wetlands and associated environmental buffers.

The Applicant will remove 1.96 acres of the existing 2.97 acres, retain 1.01 acres, and plant 0.10 acres of forest. All planting will be done within the stream valley buffer, with species appropriate to the hydric soils profile. All forest conservation planting requirements will be met on-site. This plan does not remove any trees or vegetation that would necessitate a variance request. Therefore no waiver of any of the provisions of Chapter 22A, Forest Conservation Law, is required.

As a condition of preliminary plan approval, the Applicant is amending the final forest conservation plan for The Preserves at Small's Nursery (Preliminary Plan No. 119940110 & No. Site Plan No. 819950150) to accommodate the proposed off-site access/connector road that is located on The Preserves at Small's Nursery Homeowners Association property, in land currently protected by a Category I Forest Conservation Easement.

The Department of Permitting Services approved the stormwater management concept for the development on October 7, 2008. The concept consists of onsite water quality control and recharge via a combination of non-structural measures (grass swales, rooftop disconnect, pervious pavement, etc.) and 1 biofilter facility adjacent to the environmental buffer.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning 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

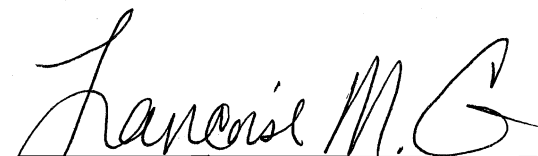
BE IT FURTHER RESOLVED, that the date of this Resolution is SEP 30 2010 (which is the date that this Resolution is mailed to all parties of record); and

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 Alfandre, seconded by Vice Chair Wells-Harley, with Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Chair Carrier abstaining, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board