



JUL 31 2012

MCPB No. 12-64
Site Plan No. 820120070
Project Name: Hoyt Property
Date of Hearing: June 7, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-1D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review site plan applications; and

WHEREAS, on June 7, 2012, EYA Development, LLC ("Applicant"), filed an application for approval of 30 three-story single-family attached townhouses with five moderately priced dwelling units (MPDU under the optional method of development 61,105 gross floor area ("Site Plan" or "Plan") on 1.81 acres of RT-15 zoned-land, located at 5400 Butler Road near River Road and Little Falls Parkway. The parcel number is P1512, Liber 9420 and Folio 237. The ("Property") is in the Westbard Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820120070, Hoyt Property ("Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 7, 2012, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 7, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record; and

WHEREAS, at the hearing, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, by a vote of 4-0 with Commissioners Anderson, Carrier, Dreyfuss, and Presley voting in favor, the Planning Board approved the Application subject to certain conditions;

Approved as to
Legal Sufficiency:

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. 820120070 for 30 single-family attached townhouses with five moderately priced dwelling units under the optional method of development 7,032 square feet, on the Property, subject to the following conditions:

1. Development Plan
The proposed development must comply with the binding elements and non-binding elements of the development plan G-907.
2. Preliminary Plan Conformance
The proposed development must comply with the conditions of approval for Preliminary Plan No. 120120140, or as amended.

Environment

3. Forest Conservation & Tree Save
The proposed development must comply with the conditions of approval for the Final Forest Conservation Plan dated May 25, 2012. The Applicant must meet all conditions prior to the recording of a plat(s) or the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.
4. Noise Analysis
 - a. Prior to approval of the certified site plan, the Applicant must submit a revised noise analysis prepared by an engineer specializing in acoustics that addresses details and locations of noise mitigation techniques to appropriately attenuate noise levels for the affected dwelling units.
 - b. Certification from an acoustical engineer that the building shell for residential dwelling units to be constructed within the projected 65 dBA Ldn noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The certification must be provided to M-NCPPC Area 1 Staff for concurrence prior to issuance of building permits.
 - c. The builder must provide a signed commitment to construct the impacted units in accord with the acoustical design specifications. Any changes to the building shell construction that may affect acoustical performance after issuance of building permit must be approved by an acoustical engineer and M-NCPPC Area 1 Staff prior to their implementation.
 - d. The builder must construct the impacted units in accord with the acoustical design specifications. Any changes to the building shell construction that

may affect acoustical performance after issuance of building permit must be approved by an acoustical engineer and M-NCPPC Area 1 Staff prior to their implementation.

5. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated February 3, 2012 unless amended and approved by the Montgomery County Department of Permitting Services.

Parks, Open Space, and Recreation

6. 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 24th building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

7. Recreation Facilities

- a) Meet the square footage requirements for all of the applicable proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
- b) Provide the following recreation facilities: 1 picnic/sitting areas, 4 seating/bench areas, and access to a pedestrian and bicycle trail network.

Density & Housing

8. Moderately Priced Dwelling Units (MPDUs)

- a) The development must provide a maximum of 13.7 percent of the total number of units as MPDUs on-site, consistent with the requirements of Chapter 25A as referenced in the memorandum dated May 18th, 2012, from the Department of Housing and Community Affairs. The Applicant is receiving a 22 percent density bonus for providing more than 15 percent MPDUs on-site.
- b) The MPDU agreement to build shall be executed prior to the release of any building permits.
- c) All of the required MPDUs shall be provided on-site.
- d) As agreed by the Department of Housing and Community Affairs (Appendix B1), the Applicant will have the ability to move the MPDU currently proposed for Lot 7 to Lot 2. The new location will measurably improve the quality of this unit. The relocation of the MPDU will allow a full walk-out at the rear ground floor bedroom allowing for increased light, a view (as opposed to a view of a window well) and an increase in width of approximately six (6) inches.

Site Plan

9. Parks

The design and details regarding tree removal and planting on Parkland shall be finalized at the time of Park Construction Permit Review.

10. Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b) All on-site light fixtures must be full 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 shall not exceed 0.5 footcandles (fc) at any property line abutting residential properties.
- e) The height of the light poles above grade shall not exceed 20 feet including the mounting base.

11. Landscape Surety

Provide a 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, on-site lighting, recreational facilities, and site furniture within the relevant phase of 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 materials and facilities, which, upon staff approval, will establish the initial bond amount.
- c) Completion of plantings by phase 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 that outlines the responsibilities of the Applicant and incorporates the cost estimate. Agreement to be executed prior to issuance of the first building permit.

12. Development Program

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) 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) Private street lamps must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- c) On-site landscaping and lighting must be completed prior to the release of the 24th building permit.
- d) On-site amenities including, but not limited to, trail connections, benches, picnic tables and trash receptacles, must be installed prior to the release of the 24th building permit.
- e) Community-wide pedestrian pathways including the bike trail connections and stairs from Little Falls Parkway to the CCT trail and the landscaping associated with the stairs must be installed prior to the use and occupancy permit for lot 20.
- f) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, landscaping on parkland, trip mitigation, and other features.

13. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and 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) Ensure consistency of all details and layout between site plan and landscape plan.

14. Floodplain Map

Prior to the Planning Board signing the Record Plat, an approved CLOMR must be received from FEMA for the re-study of their existing floodplain limits associated with the existing trapezoidal channel adjacent to the subject property and Little Falls Parkway. The Record Plat and Sediment Control Plans must show the 100 year flood plain as established by this analysis, along with the associated 25 foot building restriction line (25 foot floodplain building restriction line [FPBRL]). Any land disturbance within this 25 foot FPBRL will require a Flood Plain District Permit.

BE IT FURTHER RESOLVED, that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

BE IT FURTHER RESOLVED, that all site development elements as shown on Hoyt Property drawings stamped by The Maryland-National Capital Park and Planning Commission on May 15, 2012, 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 presented at the Hearing and set forth in the Staff Report, which the Planning Board hereby adopts and incorporates by reference (except to the extent 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.*

The Site Plan conforms to all non-illustrative elements and binding elements of the Zoning Application G-907 approved by the County Council on September 27, 2011, with the Resolution No. 17-261. The binding elements are set forth below:

- (1) Density will be limited to no more than 30 townhouses, of which no more than five will be MPDUs.
- (2) Green space will be a minimum of 30% of the gross tract area.
- (3) Building height will be limited to 35 feet.
- (4) The impervious area of the site will be reduced significantly from the current condition with the final reduction determined at Site Plan.
- (5) Market rate units will provide garage parking spaces for at least 2 cars, moderately priced dwelling units will provide garage parking spaces for at least 1 car, and at least 2 of the MPDU units will also have a dedicated second parking space. A minimum of eight (8) additional non-driveway parking spaces will be provided on the site.
- (6) Subject to approval of the Maryland National Capital Park and Planning

Commission, Applicant will install "no parking" signs along that portion of Little Falls Parkway that confronts the site. Applicant also will include in its HOA documents a confirmation that parking is prohibited on and along Little Falls Parkway.

(7) Prior to Site Plan approval for the project, Applicant shall execute, and thereafter comply with all terms and conditions of the easement agreement with M-NCPPC, (the "Easement Agreement"), set forth as Exhibit 43A in the record of Case No. G-907, approved by vote of the M-NCPPC on June 16, 2011.

(8) Access to the site will be provided via an easement and bridge connection to Little Falls Parkway pursuant to the Easement Agreement with M-NCPPC (the "Easement"), limited to passenger vehicles, bicycles and pedestrians traveling to and from the townhouse dwelling units, and for pedestrians and bicycles traveling to or from the Capital Crescent Trail. Vehicular use of the Easement is not permitted by trucks or vehicles prohibited from using Little Falls Parkway by Commission Rules or Regulations. The Easement will not be open to vehicular use until one or more townhouse units on the site are available for sale.

Access to the site for non-truck vehicular, bicycle and pedestrian traffic is being provided via the easement and bridge shown on the site plan as allowed by the executed easement included in this Application. This access point shall not be utilized until one or more townhouse units are available for sale.

(9) Truck ingress to and egress from the site will be solely via a connection to Butler Road, with such connection having a traffic control mechanism(s) restricting through traffic from Butler Road to Little Falls Parkway and Little Falls Parkway to Butler Road, so as to prevent cut-through traffic by any vehicle use not associated with the development.

(10) Development of the site will include a public access easement, to be constructed by the Applicant and maintained by the Applicant or the successor Homeowners Association for the site, to enable pedestrians and bicyclists to traverse the site for access from Little Falls Parkway to and from the Capital Crescent Trail ("CCT"). Such easement will be a minimum of 5 feet in width through the development site. Development will include, subject to M-NCPPC approval, construction of a connection to the CCT designed to accommodate bicycles and pedestrians in a manner similar to the pedestrian/bicycle connection between the CCT and Bradley Boulevard in Bethesda.

- (11) Development of the site will include, at the Applicant's cost, removal of the paving and debris materials from the existing industrial use on the site along Little Falls Branch, on the land of M-NCPPC, that is currently paved or otherwise encroached upon, and the replanting of this area with trees/shrubs, which will assist in screening the site from Little Falls Parkway, as approved by M-NCPPC.
- (12) The Applicant's consideration for the Easement to Little Falls Parkway will be governed by the Easement Agreement between the Applicant and M-NCPPC to implement certain public amenity projects to enhance the surrounding community and parkland which may include but are not limited to, stream restoration, non-native species management, trail renovations/maintenance and/or traffic calming measures as prescribed in the Easement Agreement between the Applicant and M-NCPPC.
- (13) Consistent with the Easement Agreement with M-NCPPC, in addition to the CCT public access easement, the development also will include a green landscape easement, granted to M-NCPPC, as an aesthetic green space that can be viewed by users of the park and trail. Such easement areas shall be at least equal in gross area to the gross area of the Easement granted by M-NCPPC for access to Little Falls Parkway. To the extent feasible and practical, at the sole discretion of the Applicant, the easement shall be concentrated in the area along the southern property line, adjacent to Little Falls Parkway.

Further, the Applicant will cooperate with the Capital Crescent Trail Coalition and other civic organizations to urge the appropriate governmental agencies to use the money required to be paid by Applicant pursuant to PAMR and some portion of funds Applicant is paying as consideration for the Easement Agreement for constructing improvements to the Capital Crescent Trail in the vicinity of River Road to facilitate and promote bicycling.

2. The Site Plan meets the requirements of the RT-15 zone.

Requirements of the RT-15 Zone

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Applicant meets all of the applicable requirements of the RT-15 Zone.

Data Table

Development Standard	Zoning Ordinance Permitted/ Required	Binding Elements per G-907	Proposed for Approval and Binding on the Applicant
Gross Tract Area (GTA) 59-C-1.731(a)	0.91827 acres 40,000 square feet	n/a	1.81 acres 78,935 square feet
Density			
Max. Residential Density (du/acres) 59-C-1.731(b)	15 ^(a)		
-Maximum Density Permitted at 12.5% MPDUs	15 du's/ac.		27 units
-Maximum Density Permitted at 15% MPDUs with 22% density bonus	18.3 du's/ac.		33 units
-Maximum Density Permitted at 13.7% MPDUs with 12% density bonus	16.8 du's/ac.	16.8 du's/ac.	16.8 du's/ac.
-Maximum Number of Units with 13.7% MPDUs	30 units	30 units	30 units
MPDUs (%)	16.67 5 units	16.67 5 units	16.67 5 units
Min. Building Setbacks 59-C-1.732			
(a) From any detached dwelling lot or land classified in a one-family, detached, residential zone.	30	20	20 ^(b)
(b) From any public street	20	n/a	n/a
(c) Front yard	n/a	n/a	
- Side (end unit)	8		8
- Rear	20		20
Max. Building Height (feet) 59-C-1.733			
- For a main building	35	35	35
- For an accessory building	25	n/a	n/a
Min. Coverage and Green Area 59-C-1.734			
Min. percentage of tract that must	30	38	38

be devoted to green area (%)			
Row Design 59-C-1.722			
Max. Number of Units in a Row	8	10	10 ^(c)
Parking Spaces (59-E)			
Residential One-family attached - Market-rate (2 sp/unit) - MPDUs (2 sp/unit) - Visitor Parking Total Parking Required Total Parking Provided	50 5 (garage spaces) n/a 55 space	50 7 (5 garage, 2 dedicated) 8 provided 65 spaces	50 9 (5 garages, 3 pads, 2 dedicated) 14 provided 74 spaces

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 locations of the proposed buildings and structures are adequate, safe, and efficient. The layout of the proposed development differs little from the schematic layout shown to the Board on July 14, 2011. Minus the setbacks, the townhouse rows abut the perimeter of the property on the east, west, and southern sides where the back of each unit faces parklar c. The fronts of the units face the private roadway with a decorative stamped path paralleling the roads and at the end of each driveway.

The plan proposes 30 townhomes in four attached/townhouse rows of between five and ten units each. The architecture has a contemporary, urban flair with walls of glass, wood and stone, and front loading garages. Front facing balconies are provided for many of the units.

The streetscape will be relatively urban with pavers and lanterns along the interior streets. The chosen native plant material will provide seasonal interest in both color and texture complimenting the building facades as well as providing privacy screening and accenting various site amenities. A live privacy wall is proposed to help screen adjacent property and soften the view along the portion of the property which borders the commercial use to the north. Supplemental plant material is proposed around the perimeter of the

property, enhancing existing woodland area and provided additional wildlife habitat.

b. Open Spaces

The open spaces provided are adequate, safe, and efficient. Once developed, approximately 38% of the site will be green area. As you enter the site from Little Falls Parkway a landscaped area with an outdoor eating area and benches will be located on the left. The outdoor eating area affronts the Willett Branch stream buffer which will be planted in a variety of native shrubs, understory, and canopy cover trees. A five-foot wide sidewalk/trail connection will be located on the right side of the entrance driveway. This will provide a connection from the Little Falls Parkway to the Capital Crescent Trail.

Other open areas include a small planted garden-like triangular shaped seating area that connects to the trail and main road. Additional seating is offered at the base of the access to the CCT.

c. Landscaping and Lighting

The onsite landscaping emphasizes native species and is adequate, safe, and efficient. The landscape plan achieves several objectives. It provides an adequate buffer and screening from Little Falls Parkway. The species are similar to those found on the adjacent parkland providing an unbroken ecological network of host plants and habitats. Additionally, the parkland that was encroached upon will be newly planted with native species approved of by the Parks Department. The internal landscape along street A and B will be lined with understory trees and smaller plant material, such as deciduous shrubs and groundcovers. A live privacy wall will screen adjacent property and soften the view along the portion of the property which borders the commercial use to the north.

The lighting consists of eight mounted aluminum pole light fixtures uniformly 20 feet in height. The first two pole lights will be placed on the property edge after crossing the stream. The lighting proposed will create enough visibility to provide safety but not so much as to cause glare on Little Falls Parkway. To retain the park-like setting no lights are proposed for the Parkway. As conditioned, the lighting is adequate, safe and efficient.

d. Recreation Facilities

The recreation facilities are safe, adequate, and efficient. There are no onsite active recreation facilities. However, the property directly connects to the CCT in which the Applicant will be providing a stairway. Due to the severity of the grade from the CCT to the site, ADA accessibility is not achievable. However, less than 1,000 feet away, at the River Road entrance to the CCT, ADA access is available.

Offsite recreation is locally available based on the nearby Westbrook Elementary School, the CCT, and Little Falls Community Swimming Pool. Facilities include a tot-lot, a play lot, four tennis courts, a regulation size soccer field, a regulation size baseball field, a swimming pool, and a bicycle/pedestrian trail network.

e. Vehicular and Pedestrian Circulation

The pedestrian and vehicular circulation systems are safe, adequate, and efficient. As mentioned earlier, the subject property is adjacent to parkland on three sides, with Little Falls Parkway to the east and the Capital Crescent Trail to the west. The Maryland-National Capital Park and Planning Commission agreed to an easement over the parkland to the east of the site so that the proposed townhouse residents will be able to access Little Falls Parkway. As part of this development, the Applicant will construct a vehicular bridge through the park. It will be maintained by the Applicant or the successor Homeowners Association to ensure motorists, pedestrians and bicyclists can traverse the bridge safely from Little Falls Parkway to the townhouses and CCT.

Truck ingress and egress will be solely via a connection to Butler Road, with the connection restricting through traffic from Butler Road to Little Falls Parkway. Signage will be posted so as to prevent cut-through traffic by any vehicle use not associated with the development.

The proposed road infrastructure consists of two roads that "T" at the southern end of the property. The road meets all requirements of the Montgomery County Fire Marshal and the County Code.

There are no formal sidewalks, however, above the road curb and at the end of each driveway there is a four-foot walkway that adds charm and character symbolic of a town community. The public access path from Little Falls Parkway to the CCT is also differentiated from the road. The surfaces will be maintained by the Homeowners Association.

To ensure the development does not create parking congestion on Little Falls Parkway, the Applicant will install a "no parking" sign along the portion of Little Falls Parkway that confronts the site at the approval of the Parks Department.

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

The development is compatible with the surrounding area, which has a very diverse mix of uses including, with single-family residential uses to the east, and multi-family, retail, industrial and office uses to the north and west. The plan will provide a compatible transition between those uses. The townhouses are compatible with other single-family uses because they are allowed in all single-family zones with MPDU options and cluster method of development. And, there are other townhouses and multi-family developments to the west and northwest, and the single-family detached units to the east are buffered not only by parkland but by distance.

The Sector Plan designated this Property as appropriate for townhouse development, and the Hearing Examiner and District Council found this as an appropriate location for townhomes at the density prepared for this site plan. The proposed development is compatible with surrounding uses at the proposed scale, number of units, and with the proposed landscaping.

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.*

This property is subject to Chapter 22A, Forest Conservation Law, of the Montgomery County Code and a Final Forest Conservation Plan has been reviewed and approved as part of the preliminary plan. Per Section 22A-21 of the Montgomery County Forest Conservation Law, a variance was granted as part of the FFCP approval.

The proposed development generates a planting requirement of 0.27 acres, which will be met onsite.

The Department of Permitting Services approved a Stormwater Management Concept Plan on February 3, 2012. The plan includes bio filtration stormwater management facility.

BE IT FURTHER RESOLVED, that this Resolution 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

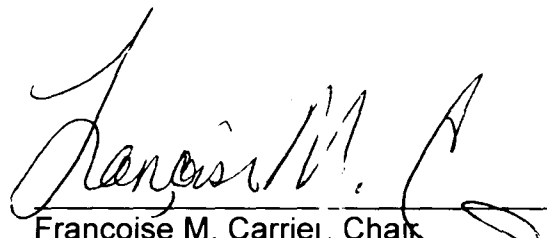
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 31 2012 (which is the date that this resolution is mailed to all parties of record); and

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 Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion at its regular meeting held on Thursday, July 26, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board