

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

MAY 8 2014

MCPB No. 14-25
Site Plan No. 820140040
Kensington Heights
Date of Hearing: May 1, 2014

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on October 23, 2013, Kensington Heights 2 LLC ("Applicant"), filed an application for approval of a site plan for three one-family detached dwelling units and eleven townhouses on 1.81 acres of RT-8 zoned-land, located north of McComas Avenue and east of Melvin Grove Court ("Subject Property"), in the Wheaton Central Business District and Vicinity Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820140040, Kensington Heights ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated April 17, 2014, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 1, 2014, 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 on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820140040 for three one-family dwelling units and eleven townhouses on the Subject Property, subject to the following conditions:¹

¹ 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.

1. Development Plan Binding Elements
The Applicant must comply with the binding elements of the Schematic Development Plan approved by the County Council in Local Map Amendment G-879, on October 12, 2010, by Resolution No. 16-1518.
2. Preliminary Plan Conformance
The Applicant must comply with the conditions of approval for Preliminary Plan No. 120110170, as listed in the MCPB Resolution No. 12-96 approved by the Planning Board on March 26, 2013, unless amended by the Planning Board. However, the Applicant shall not be required to build the sidewalk connection to the Wheaton Mall property as stated in condition of approval # 6 of Preliminary Plan No. 120110170, but must provide a public access easement in its place adequate to accommodate the future construction of a sidewalk connection. The future construction of a sidewalk connection to the Wheaton Mall property within the easement area will not require an amendment to this Site Plan.
3. Prior to approval of the certified site plan, the Applicant must file for and receive approval of an amendment to Preliminary Plan No. 120110170 to:
 - a) remove the Preliminary Plan's condition of approval # 6 and the requirement to build a sidewalk connection from the Subject Property's internal sidewalk system to the Wheaton Mall property, and
 - b) add a requirement to provide a public access easement adequate to accommodate construction of such a sidewalk connection in the future.
4. Final Forest Conservation Plan
 - a) Prior to any demolition, clearing, or grading, the Applicant must obtain Staff approval of a Certificate of Compliance Agreement for use of an M-NCPPC-approved off-site forest mitigation bank to satisfy the afforestation requirement.
 - b) Limits of disturbance (LOD) shown on the Sediment and Erosion Control Plan must be consistent with the LOD on the Final Forest Conservation Plan.
5. The Applicant must construct the private internal street(s) to applicable Montgomery County tertiary residential street structural standards and must construct all sidewalks, both on and off the Subject Property, to applicable ADA standards.
6. The Planning Board has accepted the conditions of the Montgomery County Department of Permitting Services Right-of-Way Permitting and Plan Review Section in its letter submitted electronically on March 19, 2014; and hereby incorporates them as conditions of this Site Plan approval. Therefore, the Applicant must comply with each of the conditions as set forth in the letter, which

may be amended by MCDPS provided that the amendments do not conflict with the other conditions of the Site Plan approval.

7. On-Site Lighting

- a) The lighting distribution and photometric plan must conform to IESNA standards for residential development.
- b) Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting public roads and residential properties.
- c) The height of the light poles, including the mounting base, shall not exceed 14'-6".
- d) All on-site, down-light fixtures must be full cut-off fixtures to prevent potential glare or excess illumination on adjacent properties.

8. Landscape Surety

Prior to issuance of the first building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b) The cost estimate must include all applicable elements, including, but not limited to plant material, on-site lighting, retaining walls and railings, private roads, paths and associated improvements.
- c) The bond or surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety will be followed by inspection and release of the surety.

9. The fence on top of the retaining walls along the eastern and western boundaries of the Subject Property must have a transparent design, subject to Staff approval at Certified Site Plan.

10. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved by Staff prior to the approval of the Certified Site Plan. The development program must include the following items in the 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 Sediment Control Plan and M-NCPPC inspection and approval of all protection devices.

- b) Prior to issuance of the tenth building permit, on-site amenities including, but not limited to, sidewalks, private street lamps, landscaping and trash receptacles must be installed. Street tree planting may wait until the next planting season following street construction.
- c) Prior to issuance of the tenth building permit, the off-site sidewalk of approximately 250 feet along McComas Avenue must be completed.
- d) The development program must provide phasing of stormwater management, sediment and erosion control, and other features.

11. Certified Site Plan

Prior to approval of the Certified Site Plan, the following revisions to the Site Plan must be made and/or information provided subject to Staff Review and approval:

- a) Include the Final Forest Conservation Plan approval, Stormwater Management concept approval, development program, and Site Plan Resolution on the approval or cover sheet.
- b) Add a note stating that "M-NCPPC staff must inspect all protection devices prior to clearing and grading."
- c) Modify the data table to reflect the development standards enumerated in the Planning Board Resolution of approval.
- d) Ensure that all details and the development layout are consistent between the Site Plan and the Landscape Plan.
- e) Adjust front building lines in the townhouse row for lots 82 through 86 to comply with Montgomery County Code Section 59-C-1.7222(b).

BE IT FURTHER RESOLVED, that all site development elements as shown on the Kensington Heights drawings electronically submitted to M-NCPPC by April 3, 2014, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the 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 the non-illustrative elements of the approved Schematic Development Plan described in County Council Resolution No. 16-1518 approving Local Map Amendment G-879, which rezoned the Subject

Property from R-60 to RT-8. The County Council resolution contains the following four binding elements, which the Site Plan meets.

1. *Vehicular access to this site shall be limited to McComas Avenue.*
 The only vehicular access to the Subject Property is on McComas Avenue.
 2. *Building coverage shall not exceed 25% of the gross tract area.*
 The Site Plan is limited to 22.4% building coverage.
 3. *The maximum number of dwelling units shall be 14. The final number of dwelling units will be established at site plan review.*
 The Site Plan is approved for 14 dwelling units.
 4. *Any units that have frontage on McComas Avenue shall be one-family detached homes.*
 Only Lot 93 has frontage on McComas Avenue, and it is approved for a one-family detached dwelling unit.
2. *The Site Plan meets all of the requirements of the zone in which it is located and where applicable conforms to an urban renewal plan approved under Chapter 56.*

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 Application meets all of the applicable requirements of the RT-8 Zone.

Data Table: Applicable Development Standards – RT-8 Zone

Development Standards	Required	Approved and Binding on the Applicant
Minimum Tract Area: (59-C-1.731a)	20,000 sq. ft.	78,762 sq. ft. (1.81 ac.)
Maximum Density of Development (County Council Resolution 16-1518)¹	14 DUs	14 DUs
Maximum Building Height (townhouses) (59-C-1.733)	35'	35'

Minimum Building Setbacks (townhouses) (59-C-1.732)		
From any detached dwelling lot or land classified in a one-family, detached, residential zone.	30'	30'
From an adjoining lot:		
(1) Side (end unit)	10'	10'
(2) Rear	20'	20'
Lot Area and Width² : (single- family detached units) (59-C-1.32)		
Minimum Lot Area	6,000 sq. ft.	6,069 sq. ft.
Minimum Lot Width at Street Line	25'	25'
Minimum Width at Front Building Line	60'	60'
Maximum Building Height (single-family detached units)² (59-C-1.327)		
To Highest Point	35'	35'
To Mean Height	30'	30'
Minimum Building Setbacks (single-family detached units)² (59-C-1.323)		
From a street line	25'	25' ³
From an adjoining lot:		
(1) Side	8' one side, 18 ft. sum of both sides	8' one side, 18' sum of both sides
(2) Rear	20'	20'
Coverage and Green Area (59-C-1.734)		

Maximum Building Coverage (County Council Resolution 16-1518)	25% ⁴	22.4% (17,638 sq. ft.)
Minimum Green Area (59-C-1.734)(b))	50%	53% (41,796 sq. ft.)
Parking (59-E-3.7)	28 spaces (2 spaces/DU)	34 spaces

¹ County Council Resolution 16-1518, adopting Local Map Amendment G-879, limits density to a maximum of 14 dwelling units (11 townhouses and 3 one-family detached units), which is consistent with the RT-8 Zone's maximum density of development of 8 units per acre listed in 59-C-1.731(b).

² Pursuant to 59-C-1.71(a), one-family detached dwelling units in the RT-8 Zone are subject to the R-60 Zone development standards.

³ For lot 93 only; no other lots on the Subject Property have frontage on a public street.

⁴ County Council Resolution 16-1518, adopting Local Map Amendment G-879, limits building coverage to 25%, which is more stringent than the maximum building coverage set by 59-C-1.734(a).

Row Design

Section 59-C-1.722(b) of the Montgomery County Code states that “[t]hree continuous, attached townhouses is the maximum number permitted with the same front building line. The variations in building line must be at least 2 feet.”

As depicted on the Application, the row of five townhouses on lots 82 through 86 share the same front building line. To comply with Section 59-C-1.7222(b), the front building line of this row must be varied by at least two feet to ensure that no more than three continuous townhomes share the same front building line. As conditioned above, the Applicant must reflect this variation on the Certified Site Plan, subject to Staff review and approval.

Urban Renewal Plan

The Subject Property is not within an Urban Renewal area.

- 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.*

Buildings and Structures

The Site Plan shows the townhouses placed away from the single-family houses on the adjacent properties. The townhouses are set back more than the required 30 feet from single family lots. And lot 93, the only lot fronting on McComas Avenue, complies with the fourth binding element on the applicable Schematic Development Plan by proposing a one-family detached dwelling. The locations of the building and structures are adequate, safe, and efficient.

Open Space

The RT-8 Zone does not have an open space requirement. It does have a minimum 50% green area requirement, which the Site Plan meets by providing 53% of the Subject Property as green area. The two parcels on the Subject Property proposed for stormwater management use will serve as a green area.

Landscaping & Lighting

The Landscaping Plan shows that a mix of shrubs, shade trees, and ornamental trees will be planted throughout the Subject Property. They are mainly located around the western and southern border of the Subject Property to buffer the development from neighboring residential properties.

The Lighting Plan shows traditional residential street lamps throughout the property. The illumination levels along the boundaries except McComas Avenue are at zero foot candles (fc). The illumination levels along McComas Avenue are no higher than 0.3 fc. All lighting fixtures will be full cut-off to prevent excessive glare from spilling into adjacent properties.

The landscaping and lighting on the Subject Property are adequate, safe, and efficient.

Recreation Facilities

Because, the Site Plan is proposing fewer than 25 dwelling units, it is exempt from meeting the adequacy test for recreation under the Montgomery County Recreation Guidelines. The Site Plan does provide for a safe, adequate, and efficient sidewalk system that allows for passive recreation and safe linkages to the south of the Subject Property.

Pedestrian and Vehicular Circulation

Pedestrian and vehicular circulation will be safe, adequate, and efficient, as described below.

On-Site Vehicular Circulation

Internal circulation will be adequate with the following internal private roads: 1) a north-south road from McComas Avenue; and 2) an east-west driveway that terminates in hammerheads at its eastern and western termini.

Sector-Planned Roadway and Bikeway

McComas Avenue is a secondary residential street with a 60-foot wide right-of-way that is not listed in the Sector Plan. The Sector Plan recommends a signed shared roadway (on-road bikeway), PB-7, along McComas Avenue. McComas Avenue is adequate to serve the Subject Property.

Public Transit Service

The Subject Property is located approximately half-a-mile from the nearest bus stop located at the intersection of Georgia Avenue (MD-97) and Windham Lane. Ride-On routes 7, 8, 9, 31, 34, 37, 38, and 48 and Metrobus routes C2, C4, Q1, Q2, Q4, Q6, Y5, Y7, Y8, and Y9 operate along this segment of Georgia Avenue. The Wheaton Metrorail Station is located approximately one mile away from the Subject Property.

Available public transit is adequate to serve the Subject Property.

Pedestrian Facilities

Sidewalks do not exist along the Subject Property's frontage on McComas Avenue, and there are very few sidewalks in the surrounding neighborhood. A four-foot wide sidewalk exists along McComas Avenue with an eight-foot wide tree panel, approximately 800 feet east of the Subject Property. There are sidewalks along nearby Littleford Lane and Torrance Drive.

The Site Plan shows the following pedestrian facilities pursuant to approved Preliminary Plan No. 120110170:

1. A five-foot wide sidewalk along the site's McComas Avenue frontage, continuing off-site approximately 250 feet west to the intersection with Melvin Grove Court. The off-site sidewalk will be within the public right-of-way.
2. A five-foot wide sidewalk along the east side of the north-south internal private street.

3. Handicapped ramps at the new five-foot wide sidewalk and crosswalk across the internal private street at the intersection with McComas Avenue.
4. At-grade crosswalks connecting sidewalks across all driveways of the internal private street.

With the required improvements, pedestrian facilities will serve the Subject Property adequately, safely, and efficiently.

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

The single-family units and townhouses on the Subject Property are compatible with the neighboring residential uses in the area. The property on the east side of the Subject Property is occupied by a similar RT-8 community of one-family detached houses and townhouses. Behind the Subject Property to the north is the Wheaton Mall property, and to the west and south are R-60 houses.

In locations along the Subject Property's boundaries where the townhouses are closest to neighboring one-family detached dwelling lots, the townhouses are set back more than the 30 feet required by the RT-8 Zone. The townhouses along the east side of the project, on lots 92 through 87, are approximately 35 feet from the single family lots on Littleford Lane, and the townhouse on lot 82 is approximately 33 feet from the neighboring Melvin Grove Court lot on its western boundary.

The retaining walls on the Subject Property will be compatible with the houses that abut the Subject Property's eastern and western boundaries. At its highest point, the western retaining wall will be approximately four feet high, with a fence/railing of no more than three feet. The fencing will have a transparent design in order to reduce its impact. The retaining wall by the northwest corner of the Subject Property, near Melvin Grove lot 46, will be no more than one-and-a-half feet high and will not require fencing. The eastern retaining wall will be approximately three feet at its highest point with a fence/railing of no more than three feet. A residential privacy fence is allowed up to six feet in height, so the height of the retaining wall and fence/rail will be similar to the height of a typical residential fence.

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.*

Forest Conservation

The development application is subject to the Chapter 22A of the County Forest Conservation Law. The Final Forest Conservation Plan ("FFCP") submitted with the Site Plan is consistent with the Preliminary Forest Conservation Plan (PFCP). There is no forest on the Subject Property, and the 0.35-acre forest conservation requirement will be met off-site. Approval of the PFCP included approval of a variance for the removal of two trees identified as a high priority for retention or protection. As a part of the approval, the Planning Board required the Applicant to plant six, 3" caliper trees. The FFCP includes the required mitigation plantings, and the Board finds that the FFCP complies with the requirements of the Forest Conservation Law.

Stormwater Management

As stated in the September 1, 2011, approval letter from the Department of Permitting Services, the stormwater management concept for the Subject Property is acceptable for water resources protection.

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 MAY 18 2014 (which is the date that this resolution is mailed to all parties of record); and

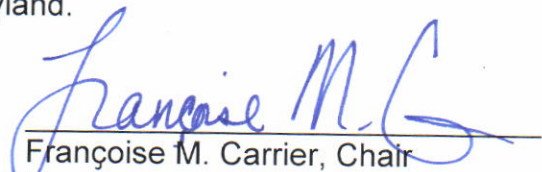
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, May 1, 2014, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board