



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

MCPB No. 14-99  
Site Plan No. 82007002D  
**Poplar Run (formerly Indian Spring)**  
Date of Hearing: 10/23/14

NOV 3 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 February 20, 2008, the Planning Board, by Resolution MCPB No. 08-26, approved Site Plan No. 820070020, for 773 dwelling units, including up to 15% MPDUs, on 310.37 acres, with supporting infrastructure, recreational amenities and open space on 310.37 acres of R-90 and R-200-zoned land, located on the east side of Layhill Road, approximately 1,300 feet south of the intersection with Middlevale Lane ("Subject Property"), in the Kensington-Wheaton Master Plan ("Master Plan") area; and

WHEREAS, on October 18, 2011, the Planning Board approved an amendment, Site Plan No. 82007002A (MCPB No. 11-63) to revise various stormwater management facilities, and made several minor changes to Poplar Run Drive, the Clubhouse, the recreation area, and updated landscaping, lighting, and decorative paving features; and

WHEREAS, on March 11, 2014, the Planning Board approved an amendment, Site Plan No. 82007002B (MCPB No. 14-14) to allow minor modifications to the approved Final Forest Conservation Plan; and

WHEREAS, on October 6, 2014, the Planning Board approved an amendment, Site Plan No. 82007002C (MCPB No. 14-85) to allow minor modifications to the approved Final Forest Conservation Plan; and

WHEREAS, on October 1, 2014, Winchester Homes ("Applicant"), filed an application for approval of an amendment to the previously approved site plans, in order to amend the development program, specifically Condition Nos. 13(b) and 13(c), originally approved with Site Plan No. 820070020, in order to address an issue with respect to timing of the installation of the 8-foot wide hard surface hiker/biker path required in Phases I and II on the Property; and

Approved as to  
Legal Sufficiency

*Christina Scott* 10/15/14

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WHEREAS, Applicant's application to amend the site plan was designated Site Plan No. 82007002D ("Site Plan," "Amendment" 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 October 13, 2014, setting forth its analysis of, and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 23, 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. 82007002D, by modifying Condition No. 13 as follows: <sup>1</sup>

13. Development Program

Applicant must construct the approved development in accordance with the Development Program. A Development Program must be reviewed and approved by M-NCPPC Staff prior to approval of the certified site plan. Development must include a phasing schedule as follows:

- a. Street tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Local Recreational Facilities
  - i. All Local Recreational Facilities must be completed prior to the issuance of the 212th building permit for the units in Phase I. (This number represents 70% of 302 units located in Phase I). The recreation facilities in Phase I include the natural areas and 3 sitting areas. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
  - ii. All Local Recreational Facilities must be completed prior to the issuance of the 229nd building permit for the units in Phase II. (This number represents 70% of 327 units located in Phase II). The recreation facilities in Phase II include the play lot, natural areas and 7 sitting areas. Landscaping and lighting associated with the

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<sup>1</sup> 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.

Recreational Facilities must be installed no later than 6 months after the completion of those facilities.

- iii. All Local Recreational Facilities must be completed prior to the issuance of the 101st building permit for the units in Phase III. (This number represents 70% of 144 units located in Phase III). The recreation facilities in Phase III include the natural areas and trails and remainder of the pedestrian system. Landscaping and lighting associated with the Recreational Facilities must be installed no later than 6 months after the completion of those facilities.
- c. Community-Wide Recreational Facilities
- i. All Community-Wide Recreational Facilities must be completed prior to the issuance of the 436th building permit. (This number represents 70% of 629 units located in Phases I and II). Community-wide facilities include the pool, pool house and community center, tot lot, gazebo in the community square, and open play areas. Landscaping and lighting associated with the community-wide facilities must be installed no later than 6 months after the completion of those facilities.
  - ii. As soon as practicable, but no later than prior to the issuance of the 650<sup>th</sup> permit, the 8-foot-wide hard surface hiker/biker path identified in Phases I, II and III must be completed. In the interim, the Applicant must place signs identifying the future hiker/biker path approximately every 150 feet along the path and these signs must remain until the hiker/biker path is fully constructed. The Applicant must include an addendum to the purchase contract providing notice of the existence of the hiker/biker path to the purchasers of those lots abutting the hiker/biker path. The Applicant must post a bond with the M-NCPPC Staff for the entire hiker/biker path identified in Phases I, II, and III within four months of the date of the approved Resolution for Site Plan No. 82007002D.
  - iii. Community-wide facilities in Phase III, and the natural surface connections to the Rachel Carson Greenway Trail and necessary bridges or boardwalks, must be completed prior to the issuance of the 101st building permit in Phase III (this number represents 70% of 144 units located in Phase III). Landscaping and lighting associated with the community-wide facilities must be installed no later than 6 months after the completion of those facilities.
  - iv. The hard surface path connection associated with the Tivoli Lakes Road connection, starting at Hugo Circle to the first intersecting street in the community (currently Street K), must be constructed along with the road connection.

BE IT FURTHER RESOLVED, that all other site plan conditions and findings of approval for this project remain valid, unchanged and in full force and effect; 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 as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

- 1. Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved site plan, and all findings not specifically addressed remain in effect.*

The Amendment proposes to modify the development program originally approved with Site Plan No. 820070020 in order to address an issue with respect to the timing of the installation of the 8-foot wide hard surface hiker/biker path required in Phases I and II. The construction and delivery of the path, in its entirety, will not change as a result of this Amendment. If approved, the timing will continue to conform to the Preliminary Plan and Site Plan approvals. At the time of the original Site Plan approval, the Applicant and Staff attempted to further refine the phasing of the path; however, this condition has become problematic due to necessary staging and grading for adjoining lots, which will impact the future trail alignment.

As the project has progressed, it has become clear that installing the path in Phases I and II would be impractical, if not impossible. The path runs through an area that is located within the limits of disturbance of a host of unfinished lots within the development, as well as an area that is required to serve as a temporary sediment trap during construction. If the path were to be installed before construction occurs on these lots, it would not be usable by the community in the short term, and may be damaged by on-going construction and need to be rebuilt. The path also would run through the temporary sediment trap, which will be in an unstabilized condition that would not be permitted. The path cannot be constructed until the areas within the limits of disturbance are stabilized and the temporary sediment trap is replaced by permanent stormwater management facilities.

In order to avoid undue delays regarding the completion of Phases I and II, the Planning Board approves the modification to Condition No. 13, above, to allow for the completion of the entire path as soon as practicable, but not later than prior to the issuance of the 650th building permit. As part of the revised condition of approval, the Applicant will install signage along the location of the path so that prospective purchasers are aware of the path and are able to visualize the location of the path in relation to their respective lots. The Applicant will also post a bond with the Planning Department for the cost of the path, and include an addendum as part of the purchase agreements for those lots

abutting the path notifying future purchasers of the path's existence. The Amendment continues to conform to the Preliminary Plan and Site Plan conditions of approval pertaining to the timing of the delivery of the trail.

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 NOV 3<sup>RD</sup> 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 Commissioner Presley, with Chair Anderson, Commissioners Dreyfuss, Presley, and Fani-Gonzalez voting in favor of the motion, and Vice Chair Wells-Harley absent, at its regular meeting held on Thursday, October 23, 2014, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board