



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUL 14 2015

MCPB No. 15-66
Site Plan No. 820150070
Grosvenor Place
Date of Hearing: June 25, 2015

RESOLUTION

WHEREAS, under Montgomery County Code Section 7.3.4, the Montgomery County Planning Board ("Planning Board") is authorized to review site plan applications; and

WHEREAS, on January 26, 2015, Community Three Development ("Applicant") filed an application for approval of a site plan for 46 townhouse units, including seven MPDUs, on 4.13 acres of R-30 zoned-land, located in the northeast quadrant of I-270 and Grosvenor Lane ("Subject Property"), in the North Bethesda/Garrett Park Master Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820150070, Grosvenor Place ("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 June 15, 2015, setting forth its analysis of and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 25, 2015, 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 certified below

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820150070 for 46 townhouse units, including 7 MPDUs 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.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Bethesda, MD 20814-3910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

M-NCPPC Legal Department
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

Conformance with Previous Approvals

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan 120150150 and any subsequent amendments.

Environment

2. Prior to any land disturbing activities occurring on-site, a financial security agreement reviewed and approved by the M-NCPPC General Counsel Office must be obtained for the planting requirements specified on the Final Forest Conservation Plan (FFCP).
3. The development must comply with the conditions of the approved Final Forest Conservation Plan, including:
 - a) Prior to demolition, clearing, or grading, the Applicant must record a Category I Conservation Easement in the Montgomery County Land Records by deed. The deed must be in a form approved by the M-NCPPC Office of the General Counsel, and the Liber Folio for the easement must be referenced on the record plat.
 - b) The Applicant must plant a quantity and size of trees that total at least 28 caliper-inches – as shown on the landscape plan – as mitigation for variance trees removed within one year after installation of improvements in the associated area. Mitigation trees must be native, canopy species, and should be a minimum of 3-inch caliper each. The amount of mitigation may be reduced from 28 to 17 inches if the Applicant demonstrates that variance trees removed are being replaced under requirements imposed by the State of Maryland (for removal of trees within the I-270 right-of-way).
4. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Additional tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

5. The Sediment and Erosion Control Plan and Storm Water Management Plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the FFCP.

6. Noise Attenuation

- a. Prior to the issuance of any building permit, the Applicant must provide Certification to Staff from an acoustical engineer that the building shells for residential units within the projected 65 dBA Ldn noise contour are designed to attenuate projected interior noise level not to exceed 45 dBA Ldn.
- b. Prior to the issuance of building permits, the Applicant must provide to Staff 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 Staff prior to their implementation.
- c. For all residential units constructed within identified noise impact areas, the Applicant must disclose in writing to all prospective purchasers that they are located within an area impacted by current or future highway or railway noise. Such notification will be accomplished by inclusion of this information in all sales contracts, brochures and promotional documents, including the *Illustrative Site Plan(s)* on display within any sales related office(s), as well as in Homeowner Association Documents, and by inclusion on all subdivision and site plans, and within all *Deeds of Conveyance*.

7. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services- Water Resources Section (MCDPS) in its letter dated May 29, 2015, and does hereby incorporate them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations 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.

Fire and Rescue

8. Fire and Rescue

The Planning Board accepts the recommendations of the Montgomery County Fire and Rescue Services (MCFRS) Fire Code Enforcement Section in its letter dated May 7, 2015, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCFRS may amend if the amendments do not conflict with other conditions of Site Plan approval.

Public Facilities and Amenities

9. The development must meet applicable accessibility standards under the Americans with Disabilities Act.
10. The Applicant must provide signage on private streets to prohibit on-street parking within the Subject Property, except in designated areas to ensure that Fire and Rescue access to all units within the development will not be impacted by residential and visitor parking.
11. Private street lamps and sidewalks must be installed within six months after streetscape construction is completed. Street tree planting may wait until the next planting season.
12. Prior to issuance of any use and occupancy permit for a stick of townhouses, on-site amenities for the stick of townhouses including, but not limited to, benches and trash receptacles must be installed. Landscaping will be installed per the development program.
13. The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to sidewalks, landscaping, and benches.

Transportation

14. At the centrally located open-space/amenity area, the Applicant must provide two inverted-U bike racks or equivalent approved by Staff, that conform to American Pedestrian and Bicycle Professionals Guidelines to store four bicycles.

MPDUs

15. Moderately Priced Dwelling Units (MPDUs)

The Planning Board accepts the recommendations of Department of Housing and Community Affairs (DHCA) in its letter dated May 21, 2015 and hereby incorporates them as conditions of the Site Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which DHCA may amend provided that the amendments do not conflict with other conditions of the Site Plan approval.

- a. The development must provide seven (7) MPDUs in accordance with the requirements of Chapter 25A.

Open Space and Recreation

16. Common Open Space Covenant

The record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (Covenant). Prior to issuance of the 35th building permit the Applicant must provide verification to Staff that Applicant's recorded Homeowners Association Documents incorporate the Covenant by reference.

17. Recreation Facilities

- a) Before Certified Site Plan approval, the Applicant must demonstrate to Staff that each recreation element satisfies the M-NCPPC Recreation Guidelines.
- b) The Applicant must provide, at a minimum, five picnic/sitting areas, and two natural areas, as shown on the Certified Site Plan.

Miscellaneous

18. On-Site Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential/commercial 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 must not exceed 18 feet including the mounting base.
- d. All on-site down-light fixtures must be full or partial cut-off fixtures.

19. 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 7.3.4.K 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 and alleys, curb and gutter, sidewalks, benches, recreation and play equipment, noise walls, paths and associated improvements; and
- 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.

20. 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:

- a) Phasing for installation of on-site landscaping and lighting;
- b) Phasing of stormwater management, sediment and erosion control, and other features; and
- c) Construction sequence of all significant building and Site Plan elements.

21. Certified Site Plan

The Certified Site Plan must include the following:

- a) The Final Forest Conservation Plan approval, Stormwater Management concept approval, development program, and Preliminary Plan and Site Plan Resolution;
- b) A note stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading";
- c) The data table must reflect development standards enumerated in the Staff Report;
- d) Consistency of all details and layout between Site Plan and Landscape Plan; and
- e) Remove all unnecessary details.

BE IT FURTHER RESOLVED, that all site development elements as shown on Grosvenor Place drawings stamped by the M-NCPPC on May 7, 2015 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 the site plan:

- a. Satisfies any previous approvals that apply to the site

The Site is the remainder of a recorded lot, Parcel F, Grosvenor Park Subdivision, Preliminary Plan No. 119820430. This site was not included as part of the condominium regime and is owned separately from the rest of the larger property. Preliminary Plan 120150150 replaces the previous Preliminary Plan 119820430 for this part of the original recorded parcel.

- b. Satisfies under Section 7.7.1.B.5 the binding elements of any development plan or schematic development plan in effect on October 29, 2014;

There is no development plan or schematic development plan on the Site.

- c. Satisfies under Section 7.7.1.B.5 any green area requirement in effect on October 29,2014 for a property where the zoning classification on October 29,2014 was the result of a Local Map Amendment;

The Site's zoning was not the result of a Local Map Amendment.

- d. Satisfies applicable use standards, development standards, and general requirements under this Chapter;

Table 1: R30 Zone, Optional Method Development Standards

Development Standards	Required	Approved
Minimum Site Dimensions: Usable Area (Section 4.4.14.C.1)	11,761 sq. ft.	179,953 sq. ft. (4.13 ac.)
Maximum Density (Section 4.4.14.C.1)	73 units (17.69 du/ac)	46 units (10.41 du/ac)
Minimum Open Space: Common Open Space (Section 4.4.14.C.1)	35%	57%
Minimum Lot Dimensions: (Section 4.4.14.C.2)		
Lot Area	800 sq. ft.	992 sq ft.
Lot Width at Front Building Line	Determined at Site Plan	14'
Lot Width at Front Lot Line	14'	14'
Frontage on Street or Open Space	Required	Provided
Maximum Coverage: (Section 4.4.14.C.2)	75%	73%
Minimum Principal Building Setbacks (Section 4.4.14.C.3)		
Front Setback from Public Street	10'	n/a
Front Setback from Private Street or Open Space	6'	6'
Side Street Setback	10'	10'
Side or Rear Setback	Determined at Site Plan	0'

Development Standards	Required	Approved
Rear Setback, Alley	4' or 20'	4' (Market Rate) 20' (MPDU's)
Maximum Height (Section 4.4.14.C.4)	40'	40'
Parking (Section 6.2.4.B) (Section 6.2.3.I.2)	Market Rate 2sp/du=72 MPDUs 1 sp/du=7	Market Rate 2sp/du=72 MPDUs 2 sp/du=14 5 Guest Spaces

- a. Satisfies the applicable requirements of:
 - i. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and;
 - ii. Chapter 22A, Forest Conservation

Based on the May 29, 2015 Approval letter by the Montgomery County Department of Permitting Services staff, the stormwater management concept for the site is acceptable. The concept includes the use of microbioretention and micro bioretention planter boxes to achieve stormwater management goals. Therefore, the project satisfies the Chapter 19 requirements.

The Final Forest Conservation Plan submitted with the Site Plan is consistent with the Preliminary Forest Conservation Plan submitted with the Preliminary Plan. The requirements of Chapter 22A are satisfied by on-site forest retention of 1.55 acres, with the retained acreage protected in Category I Forest Conservation Easements as delineated on the Preliminary and Final Forest Conservation Plans. Variance mitigation trees, separate from the afforestation and reforestation requirements, are included on the Final Forest Conservation Plan and Landscape Plan to mitigate for the removal of three variance trees. With these provisions, Staff finds that the Site Plan is in compliance with Chapter 22A, Forest Conservation.

- b. *Provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities*

Parking

The development provides two parking spaces for every townhouse, including the MPDU units, and five spaces for guest parking, which are easily accessible to all units in the development. Therefore, the parking is adequate, safe and well-integrated.

Circulation Patterns

The pedestrian and vehicular circulation patterns are safe and adequate. The proposal includes sidewalks along the front and sides of the Site to allow pedestrian access throughout the development. Drive aisles provide vehicular access from one of the four entrances off of Grosvenor Place to the rear alleys and the guest parking spaces.

Building Massing

The building massing is appropriate for the area. The townhouses are similar in height and scale to the townhouses in the neighboring townhouse development to the north of the Site.

Open Spaces and Site Amenities

Two common open space areas, one at the northern end and one at the southern end of the Site will serve as natural recreation areas for observation. The proposal includes five seating areas; one besides each of the two natural areas; two in the small 3,300 square foot recreational space area along Grosvenor Place; and one near the mailboxes. Additional recreation is available off-site at Fleming Park, which is about a half-mile walk from the Site and includes a playground, open play areas, ball fields, and tennis and basketball courts.

- c. *Substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;*

The Grosvenor Place development is consistent with the recommendations of the Approved and Adopted *1992 North Bethesda Garrett Park Master Plan*. The Site is located in sub-area 4 (Grosvenor Park Townhouses) of the Grosvenor Sector Plan Area. The Master Plan identifies existing features of the overall site, including a stream valley and woodlands.

The development contributes to achieving the Master Plan's objective of developing "Grosvenor as a transit serviceable residential district" (p.62) and providing "open space within new development" and "preserving

existing tree stands to the maximum possible extent” (p.132). Approximately 57% of the total site is open space, including environmentally sensitive and wooded areas, and the plan includes a 3,300 square foot centrally located open space/amenity area. The provision of additional Moderately Price Dwelling Units (MPDUs) implements the Master Plan objective to “preserve and increase the variety of housing stock, including affordable housing” (p.33)

Finally, noise along roadways, such as I-270, is identified as a significant issue in the Plan area. The Plan states that “development of any undeveloped or redevelopable land adjacent to major highways should use noise-compatible land use and site design and other mitigation measures recommended in the “Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development” (p.252). The Applicant has worked closely with Staff to incorporate design features and a layout that minimizes interior and exterior noise. The Applicant has also provided a revised noise study based on the suggested changes to demonstrate compliance with the noise guidelines. Neither the noise guidelines, the master plan, nor any other applicable law or regulation authorizes – much less requires – the Board to consider the extent to which removing trees on the subject property will reduce the noise buffer for surrounding properties from I-270 traffic. Moreover, although residents of the nearby apartment tower expressed concern about the bulk of the evidence presented to the Board on this issue suggested that constructing townhomes and noise walls on the subject property will marginally reduce the noise at neighboring buildings.

- d. *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that proposed development will be served by adequate public services and facilities, including schools, police and fire protection, fire, a sanitary sewer, public roads, and storm drainage;*

The Planning Board’s determination of adequate public facilities is part of the Preliminary Plan. There are adequate public facilities to serve the Site.

- e. *On a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and*

The surrounding residential neighborhood is a mix of R-10 multifamily and R-30 zoned townhouse developments. The approved townhouse development is compatible with the character of the area.

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

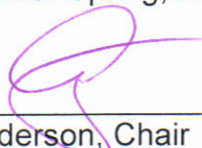
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 14 2015 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor of the motion, at its regular meeting held on Thursday, June 25, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board