



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

CONSENT ITEM #
MCPB 6/28/07

MEMORANDUM

DATE: May 14, 2007 (Original)
June 18, 2007 (Revised)

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*

REVIEW TYPE: Site Plan Amendment Review

PROJECT NAME: Maple Ridge Townhomes (Also known as Seaton Square)

CASE # 82003041A



APPLYING FOR: Approval of site plan amendment to replace playground equipment with comparable equipment from a different manufacturer.

REVIEW BASIS: Div. 59-D-3.7 of the Montgomery County Zoning Ordinance.

ZONE: RT-8

LOCATION: Between Lockwood Drive and Columbia Pike (US 29), approximately 1,500 feet west of New Hampshire Avenue (MD 650)

MASTER PLAN: White Oak & Vicinity

APPLICANT: HD-Maple Ridge LLC

HEARING DATE: June 28, 2007

STAFF RECOMMENDATION: Approval of the proposed amendment to Site Plan 820030410 and approval of draft Planning Board Resolution for Site Plan 82003041A.

BACKGROUND

Site Plan 820030410 (formerly 8-03041) was approved for a 59-unit townhouse development (including 8 MPDU's) on October 16, 2003. On February 10, 2006, the Planning Board held a hearing with respect to several alleged violations related to 1) setbacks 2) height, and 3) failure to provide recreation facilities in a timely manner. In resolving the matter, the Board made no finding of violation against the Respondent, NVR, Inc. t/a Ryan Homes, or the developer, DH-Maple Ridge LLC, but approved a settlement requiring the respondent (NVR, Inc.) to remit \$276,750 to the

Planning Board and waive its right to appeal the Board's decision. The Board received payment in full.

Site Plan Amendment A

During its investigation of the alleged violations, staff learned that the applicant had made a timely request to substitute playground equipment manufactured by a different company than that which was shown in the approved site plan. The request was received at a time when staff was no longer allowed to make field changes, the Commission was involved in legal action regarding playground substitutions, and Maple Ridge was under investigation for failure to comply with its conditions of approval. Moreover, the plan that was approved in 2003 specified a particular brand and particular model numbers for the equipment to be installed and did not include the phrase "or equal." Staff did review the request to change the equipment and responded in writing in December of 2005 that although the proposed substitution was found to be "equal" both in terms of quality, age groups served and the number of activities provided, a site plan amendment would still be needed. At that point, and in order to meet the condition of approval related to the timeliness of the installation, the applicant went ahead and installed the substitute equipment in January of 2006, after being informed that they were doing so at their own risk.

Originally, the applicant thought that the Board's violation hearing in February of 2006 had brought the substitution matter to a close, but, in fact, the Board only found that there was no violation with respect to the timing of the installation of the recreation equipment. The issue relating to the equipment substitution was not presented to the Board as part of the February hearing. Therefore, to ensure that the proper procedure is followed, the applicant is formally seeking a site plan amendment to do the following:

Replace the playground equipment specified in the site plan with comparable equipment from a different manufacturer

Proper notice was provided to the public and no comments were received.

STAFF RECOMMENDATION

The equipment manufactured by Sport Systems was found to be equivalent in terms of the ages served, the number of activities provided and the overall quality. Therefore, this amendment does not alter the overall design character of the development or affect the compatibility of the development to its surrounding neighborhood, and, as such, all of the Planning Board's findings from its approval of Site Plan #820030410 remain the same. Staff, therefore, recommends **approval** of the Site Plan Amendment 82003041A.

ATTACHMENTS:

- A. Vicinity Description
- B. Draft Planning Board Resolution

Attachment A:

Site Vicinity

The subject property is zoned RT-8 and located between Lockwood Drive and Columbia Pike (US 29), approximately 1,500 feet west of New Hampshire Avenue (MD 650). It is bounded by a townhouse development zoned RT-12.5 to the north and one-family detached homes zoned R-90 to the south. Across Columbia Pike from the site to the west is Burnt Mills Elementary School. Subdivisions located across Lockwood Drive to the east are R-90 zoned one-family detached homes.

MCPB No. _____
Site Plan No. 82003041A
Project Name: Maple Ridge Townhomes
Hearing Date: June 28, 2007

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board") is required to review amendments to approved site plans; and

WHEREAS, on February 6, 2006, HD Maple Ridge, LLC ("Applicant"), filed a site plan amendment application designated Site Plan No. 82003041A ("Amendment") for approval of the following modifications:

1. Substitution of Approved Recreational Equipment with Equivalent Equipment from a different manufacturer

WHEREAS, following review and analysis of the Amendment by Planning Board staff ("Staff") and the staffs of other applicable governmental agencies, Staff issued a memorandum to the Planning Board dated June 18, 2007 setting forth its analysis and recommendation for approval of the Amendment ("Staff Report"); and

WHEREAS, on June 28, 2007 Staff presented the Amendment to the Planning Board as a consent item for its review and action (the "Hearing");

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Planning Board hereby adopts the Staff's recommendation and analysis set forth in the Staff Report and hereby approves Site Plan No. 82003041A; and

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 the date of this written resolution is _____ (which is the date that this opinion 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 written opinion, 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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