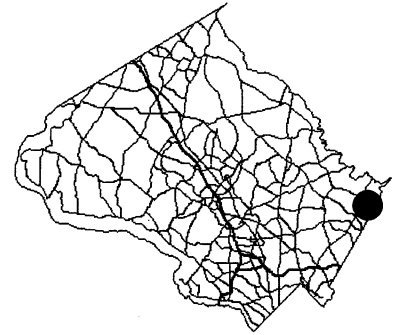




MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
7/12/07



MEMORANDUM

DATE: June 29, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: Neil Braunstein, Planner Coordinator (301-495-4532) *NB*
Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Subdivision to create 64 townhouse lots

PROJECT NAME: Burn Brae Property

CASE #: 120070260

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: R-90/TDR

LOCATION: Located on the east side of Blackburn Lane, 150 feet north of the intersection of Blackburn Road

MASTER PLAN: Fairland

APPLICANT: KB Burn Brae Land, LLC

ENGINEER: Gutschick, Little & Weber

ATTORNEY: Holland & Knight

FILING DATE: October 18, 2006

HEARING DATE: July 12, 2007

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 63 lots for 63 townhouse dwelling units, including a minimum of 15% moderately priced dwelling units (MPDUs).
- 2) The record plat must reflect serialization and liber/folio reference for all TDRs utilized by the development.
- 3) The applicant must comply with the conditions of the Preliminary Forest Conservation Plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable. Conditions include:
 - a. Approval of the Final Forest Conservation Plan consistent with approved Preliminary Forest Conservation Plan prior to any clearing, grading, or demolition on the site.
 - b. The Final Forest Conservation Plan must show all areas of stream restoration.
- 4) The applicant must implement, in coordination with Maryland State Highway Administration (SHA) and Montgomery County Department of Public Works and Transportation (DPWT), the following APF improvement at the intersection of US 29 and Blackburn Road prior to the release of the 32nd building permit:
 - a. Widening of the west leg of Blackburn Road to provide an additional eastbound lane, to provide separate left/through and through/right lanes on the eastbound Blackburn Road approach to the intersection. Under this scheme, the left lane would be used as a left-turn lane to northbound US 29 and as a through-lane across US 29 to turn left to northbound Blackburn Lane; and the right lane would be used as a through-lane across US 29 to eastbound Blackburn Road and as a right-turn lane to southbound US 29.
- 5) The applicant must comply with SHA and DPWT requirements in designing and implementing the APF improvement described in Condition 4.
- 6) The applicant must pay a pro-rata share (based on trip generation) of the actual construction costs of any improvement to the Route 29 and Blackburn Road intersection, as approved by both SHA and DPWT within five years after the approval of the preliminary plan. If there is no approved design and construction funding available for the intersection improvement within five years from the date of the planning board resolution for this plan, the applicant's obligation to pay a pro-rata share shall terminate.
- 7) The applicant must construct a four-foot wide sidewalk along the Blackburn Lane frontage, between Blackburn Road and Private Street A.
- 8) The applicant must construct all internal sidewalks five-feet wide, including along Private Street A. All sidewalk ramps must meet Americans with Disability Act (ADA) requirements.
- 9) Sidewalks required under Conditions 7 and 8 must be in place prior to the release of the 48th building permit.
- 10) The applicant must construct all private streets to the widths shown on the preliminary plan, including the typical sections shown on the preliminary plan. The streets must be built to the structural standards of a tertiary road, as specified in Section 50-25(h) of the Subdivision Regulations.

- 11) The applicant must comply with the conditions of the MCDPS stormwater management approval dated February 2, 2007.
- 12) The applicant must comply with the conditions of the MCDPWT letter dated November 7, 2006, unless otherwise amended.
- 13) The applicant must comply with the conditions of the MCFRS memorandum dated December 13, 2006.
- 14) The applicant must provide access and improvements as required by DPWT or MDSHA, as applicable, prior to approval of record plats.
- 15) No clearing, grading or recording of plats prior to certified site plan approval.
- 16) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 17) The final number of MPDUs and TDRs, as per Conditions 1 and 2 above, will be determined at the time of site plan.
- 18) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 19) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The applicant must provide verification to Commission staff prior to release of final building permit that the applicant's recorded HOA Documents incorporate by reference the Covenant.
- 20) The record plat must reflect dedication of acreage to M-NCPPC for park purposes, as shown on the preliminary plan.
- 21) The applicant must comply with the recommendations of the SHA letter dated May 2, 2007.
- 22) The record plat must reflect a Category I Conservation Easement or M-NCPPC parkland dedication over all areas of environmental/stream valley buffer and forest conservation. Prior to plat recordation, M-NCPPC staff must approve any amended language to easements or agreements.
- 23) The record plat must reflect a public use and access easement over all private streets and adjacent sidewalks.
- 24) The record plat must show necessary easements.
- 25) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.

SITE DESCRIPTION

The subject property, shown below and in Attachment A, is an unplatted parcel measuring 11.51 acres in the R-90/TDR zone. The property is located on the east side of Blackburn Lane, 150 feet north of the intersection of Blackburn Road. The site currently contains a church consisting of several buildings and a parking lot (formerly the Burn Brae Dinner Theater), which will be removed to accommodate the proposed subdivision.

Properties north of the site are multiple family residences and are zoned R-20, properties south and west of the site are townhouses and are zoned R-90/TDR, and properties east of the site are public open space in the M-NCPPC-owned Fairland Recreational Park. The portion of

the park that is adjacent to the proposed subdivision contains a wooded stream valley and is undeveloped.

The subject property is located within the Little Paint Branch watershed. The site is largely developed with buildings and paved parking, private driveways, and sports courts. An unnamed stream channel runs west to east near the northern property boundary, meandering on and off the site. The Little Paint Branch runs north to south, mostly offsite, but it also meanders onto the site for short segments. Both of these streams have associated stream valley buffers that form a crescent shape along the northern, eastern, and southern property boundaries of the site. Much of the stream valley buffer areas are forested, however, existing paved parking areas and driveways encroach into the buffer. The forested areas on the property are contiguous with a large forest on the adjacent Fairland Recreational Park. There is a floodplain associated with the Little Paint Branch and one small area of wetlands. The slopes leading down to the Little Paint Branch are steep and have highly erodible soils.

There are numerous impacts to the physical environment due to the prior development of this property as the Burn Brae Dinner Theater. Approximately 2.4 acres of the stream valley buffer have been encroached into with the entry drive, parking lots and cleared slopes. There appears to be no storm water management facilities on this site, so storm runoff is not contained or treated and has caused erosive degradation of the steep slopes leading down to the stream. Uncontrolled runoff has also contributed to the degradation of the stream with areas of silting and bank undercutting.



PREVIOUS PLANNING BOARD REVIEW

A Pre-Preliminary Plan for the subject property was presented to the Planning Board at the request of the applicant on June 8, 2006. The purpose of the review was to obtain Planning Board advice regarding the appropriate TDR density for the site. The applicant was requesting density of 7 units per acre as opposed to the 4.6 units per acre recommended by staff.

The applicant argued that since the 1997 Master Plan is silent with respect to the exact TDR level, they should be permitted to use any designation for a TDR receiving area up to the limit established in the Optional Method of Development. In their opinion, 7 units per acre was compatible with the surrounding uses and densities which exceed 20 units per acre on the north and approximately 8 units per acre on the west, and therefore, could be considered a reasonable level to use. They were also of the opinion that the density limits supported by staff, as established by the "Trip Reduction Amendment" to the Master Plan adopted in 1990, are no longer applicable since changes have occurred in the area which have permanently reduced traffic generation and substantially increased transportation capacity.

Staff concurred that the 1997 Fairland Master Plan does not explicitly discuss TDR densities for the subject property, but noted that there is past precedent from previous reviews on which to base the density of no more than 4.6 units per acre. Staff argued that any density higher than that designated in the 1990 Trip Reduction Amendment would be contrary to master plan intent. In this area, the Master Plan recommends more one-family residential uses as opposed to the mix of unit types that would be needed to support higher density levels. The Planning Board concurred with staff's recommendations.

PROJECT DESCRIPTION

The applicant proposes to create 64 townhouse lots. Fifty-four of the townhouses are proposed to be market-rate units and ten of the townhouses are proposed to be moderately priced dwelling units (MPDUs). The applicant is employing optional methods of development relating to the use of transferable development rights and increased density allowed with MPDUs. The density of the property, with transferable development rights, is 52 dwelling units. A 22% density bonus is permitted when at least 15% of the dwelling units will be MPDUs, as the developer is proposing. The density bonus yields a total density of 64 dwelling units for the site.

Access to the townhouses will be via a network of private streets, with a connection to the public street network on Blackburn Lane. The subdivision also includes a 6.42 acre common open space parcel to be owned by the homeowners association, which will contain a village green, play areas, forested and reforestation areas, and the private street network. In addition, an approximately 1.6 acre open space parcel is proposed to be dedicated to the Maryland-National Capital Park and Planning Commission's park system as an addition to the adjacent Fairland Recreational Park. Fifty-two percent of the site (six acres) will be devoted to green area, which exceeds the 35% requirement of the Zoning Ordinance.

(Attachment B – proposed plan)

ANALYSIS AND FINDINGS

Master Plan Compliance

The subject property is located within the Blackburn Road Area in the 1997 approved and adopted Fairland Master Plan. Although the master plan does not discuss this property specifically, the master plan sets the TDR density for this property at 4.6 dwelling units per acre, as it does for all R-90/TDR zoned property in the Fairland Master Plan.

The proposed design reflects changes that resulted from discussion during the pre-preliminary plan hearing before the Planning Board and testimony from the community regarding density and unit types. The proposed number of dwellings is consistent with the TDR density, and the unit type conforms to the intent of the master plan to encourage single-family units.

Staff finds, therefore, that the proposed subdivision complies with the recommendations adopted in the Master Plan.

Transportation

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 1997 Approved and Adopted Fairland Master Plan describes the nearby master-planned roadways, pedestrian and bikeway facilities as follows:

1. Columbia Pike (US 29), to the west of, but not adjoining, the property, as a six-lane divided major highway (CM-10) between Northwest Branch to the southwest and MD 198 to the northeast. A minimum right-of-way width of 100 to 200 feet is recommended for this section of US 29. The master plan also recommends a commuter bikeway for US 29. Blackburn Lane provides access to the site and other uses to the north of the site, and is within the SHA right-of-way for US 29.
2. Blackburn Road, to the south of, but not adjoining, the property, as a two-lane primary residential road (P-44) to the east of US 29, with a minimum 70-foot right-of-way, and sidewalks.

Nearby Transportation Improvement Projects

The Maryland State Highway Administration (SHA) Consolidated Transportation Program (CTP) includes the US 29/Blackburn Road and US 29/Greencastle Road Interchanges. These projects are currently on hold and are not funded for design and construction.

Local Area Transportation Review

A traffic study was required for the subject preliminary plan based on the Local Area Transportation Review (LATR) Guidelines since the subject development was estimated to generate 30 or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

After staff review and comments, the consultant for the applicant submitted a final traffic study, dated March 23, 2007, that determined the traffic-related impacts of 64 townhouses on the nearby roadway intersections during weekday morning and evening peak periods. Staff review of the traffic study indicated that the study complied with the requirements of the LATR Guidelines and the traffic study scope provided by staff.

The proposed Burn Brae Property development was estimated to generate approximately 31 peak-hour trips during the weekday morning peak-period, and approximately 53 peak-hour trips during the weekday evening peak-period. A summary of the trip generation is provided in Table 1.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
BURN BRAE PROPERTY – 64 TOWNHOUSES**

| Time Period | Trip Generation | | |
|---------------------------|-----------------|-----|-------|
| | In | Out | Total |
| Weekday Morning Peak-Hour | 5 | 26 | 31 |
| Weekday Evening Peak-Hour | 36 | 17 | 53 |

Note: Based on M-NCPPC trip generation rates for townhouses.

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the study intersections for the weekday morning and evening peak hours within the respective peak periods from the traffic study is presented in Table 2.

TABLE 2
SUMMARY OF CAPACITY CALCULATIONS (CLV)
BURN BRAE PROPERTY – 64 TOWNHOUSES

| Intersection | Traffic Conditions | | | | | | | |
|--|--------------------|------|------------|------|-------|------|-------------------------------|------|
| | Existing | | Background | | Total | | Total w/Applicant Funded Imps | |
| | AM | PM | AM | PM | AM | PM | AM | PM |
| US 29/Blackburn Rd | 1484 | 1448 | 1509 | 1482 | 1532 | 1501 | 1488 | 1417 |
| Blackburn Rd and Blackburn Ln | | | | | | | -- | -- |
| Blackburn Rd and US 29 southbound ramp | 129 | 162 | 137 | 172 | 138 | 177 | -- | -- |
| Blackburn Rd and US 29 northbound ramp | 132 | 126 | 143 | 149 | 143 | 149 | -- | -- |
| Blackburn Ln and Site Access Driveway | -- | -- | -- | -- | 227 | 243 | -- | -- |

Source: Burn Brae Dinner Theater Local Area Transportation Review. The Traffic Group, Inc. March 23, 2007.
FY 2005 Congestion Standard for Fairland/White Oak Policy Area: 1,500

As shown in Table 2, under Total traffic conditions, CLV values at the study intersections were either below the Fairland/White Oak congestion standard of 1,500, or with an applicant identified roadway improvement (to the eastbound Blackburn Road approach to US 29) would not exceed the respective CLV under Background traffic conditions.

Based on the review of the analysis presented in the traffic study, staff concludes that the proposed APF improvement will create adequate capacity to accommodate traffic associated with the subject development.

Pedestrian access to the subdivision will be via proposed sidewalks along the property frontage on Blackburn Lane and a proposed sidewalk on one side of the proposed private entrance street. The proposed internal street network will have sidewalks leading to each block of townhouses.

Staff finds that proposed vehicular and pedestrian access for the subdivision will be safe and adequate with the proposed public and private improvements.

Environment

Environmental Guidelines

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) to staff for review and approval. Environmental Planning staff approved NRI/FSD 4-06141 on March 8, 2006, and amended it on June 15, 2007. The NRI/FSD indicates 3.51 acres of existing forest, 5.24 acres of environmental buffers, 0.01 acres of wetlands, and 0.07 acres of floodplains on this property.

There are both natural and man-made steep slopes on this property. The natural slopes will be protected by either a Category I Forest Conservation Easement or by MNCPPC parkland dedication.

A first order unnamed tributary within the Silverwood subwatershed originates and travels east-west across the northern property line. The Little Paint Branch runs north-south in adjacent parkland and meanders onto the subject property in two places. The environmental buffers are not fully forested, but will be forested except for necessary encroachments. Disturbance to the stream valley buffer has been minimized, but cannot be completely avoided because the only access to this property is through the stream valley buffer. A bioretention facility is proposed to be included in the stream valley buffer to mitigate for the reduced buffer function caused by the access road encroachment. The only other encroachment into the environmental buffers is for necessary stormwater management conveyances. All other portions of the environmental buffers will be included in a Category I Forest Conservation Easement or dedicated to MNCPPC as parkland.

Staff, therefore, finds that the plan meets all applicable requirements for protection of environmentally sensitive areas.

Forest Conservation

According to the preliminary forest conservation plan submitted with the application, there are 3.51 acres of existing forest on the property. The applicant is proposing to remove 0.66 acres, retain 2.85 acres, and plant 1.26 acres of forest. Approximately 1.10 acres of replanting will be done within the stream valley buffer. All unforested areas of the stream valley buffer will be replanted, with the exception of WSSC and stormwater management easement areas. An additional 0.11 acres of forest will be planted outside the stream valley buffer.

The plan satisfies the forest conservation requirements by protecting forest retention and planting areas. Approximately 1.61 acres of forested and planted stream valley buffer will be dedicated to M-NCPPC as parkland. The remaining area will be placed in Category 1 forest conservation easements.

Minimum Retention

Section 22A-12(f)(2)(B) of the Forest Conservation Law requires that on-site forest retention for sites developed using optional methods in a one-family residential zone must be equal to the applicable conservation threshold. For this property, the conservation threshold is 20% of the net tract area, or 2.3 acres. The proposed subdivision meets this requirement by retaining 2.85 acres of forest on the site.

Therefore, staff finds that the plan meets all applicable requirements of the county Forest Conservation Law.

Stormwater Management

The MCDPS Stormwater Management Section approved a stormwater management concept for the project on February 2, 2007, which includes on-site channel protection measures via a detention pond and on-site water quality control via bio filters and sand filters. Recharge is not required.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the R-90/TDR zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

In order to attain compliance with the unit density requirements of the R-90/TDR zone, staff is recommending approval of 63 lots for 63 townhouse dwellings, instead of the 64 lots and dwelling units requested by the applicant and shown on the preliminary plan. This recommendation is based on correcting an error made by the applicant in calculating the permitted number of dwelling units.

The permitted density of the site, with the use of 11 TDRs, is 4.6 units per acre. On the 11.51-acre site, this yields 52 units ($11.51 \times 4.6 = 52.9$). When calculating allowable density, all numbers are rounded down. The inclusion of 15% MPDUs allows a 22% density bonus, which yields 63 units ($52 \times 1.22 = 63.44$). The maximum permitted density of the site, therefore, is 63 units.

Waiver of the Maximum Percentage Requirements for Attached Units

Sections 59-C-1.395 and 59-C-1.621 of the Montgomery County Zoning Ordinance limit the percentage of townhouses and attached dwelling units to 60% of the total number of dwellings in subdivisions that use the optional TDR method of development and include moderately priced dwelling units. But the ordinance also allows the Planning Board to approve a subdivision in which up to 100% of the units are attached units or townhouses, if the Planning Board finds that the proposed development is more desirable from an environmental perspective than development that adheres to the percentage limits.

The proposed development of 100% townhouses is more desirable from an environmental perspective than development that adheres to the percentage limits because it minimizes the impacts to the environmentally sensitive area. Pursuant to Section 50-29(a)(2) of the Subdivision regulations, lots for one-family detached dwellings in the R-90 zone must have frontage on a public road. On this site, a public road would require construction of a 26-foot-wide tertiary street instead of the proposed 20-foot-wide private street, causing approximately 30,000 square feet of additional disturbance within the stream valley buffer. Additional storm water management facilities would also be required, potentially within the stream valley buffer. The proposed subdivision will be accessed by a private street in generally the same configuration as the existing driveway, which will minimize grading.

Further, the townhouse-only subdivision requires a smaller overall development area, allowing for more of the remaining area to remain forested or be reforested. The applicant is proposing 0.55 acres of forest to be retained above the conservation threshold, and 1.11 acres of reforestation are proposed.

Further justifying the waiver, additional measures proposed by the developer to enhance the environment include reforestation of the stream valley buffer. The Forest Conservation Law does not require reforestation, but the developer has proposed planting 1.26 acres within the stream valley buffer to improve buffer function. Also, the developer has proposed stream restoration measures including dredging of an existing storm water management outfall for adjacent development and four areas of channel restoration. Stream restoration will be approved by the Maryland Department of the Environment but is shown on the Final Forest Conservation plan.

Citizen Correspondence and Issues

On October 19, 2006, the applicant notified 38 adjacent and confronting property owners that the Burn Brae Preliminary Plan had been filed with the M-NCPPC and that it was under review. On November 2, 2006, the applicant also notified 39 citizens associations. On June 29, 2007, staff sent notice of the public hearing to these parties. We have not received any letters of concern regarding the application as of the date of this staff report.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance, and comply with the recommendations of the Fairland Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

Attachment A – Vicinity Development Map

Attachment B – Proposed Development Plan

Attachment C – Agency Correspondence Referenced in Conditions

Table 1: Preliminary Plan Data Table and Checklist

| Plan Name: Burn Brae Property | | | | |
|---|--|---|-----------------|-------------|
| Plan Number: 120070260 | | | | |
| Zoning: R-90/TDR | | | | |
| # of Lots: 64 | | | | |
| # of Outlots: 0 | | | | |
| Dev. Type: Residential | | | | |
| PLAN DATA | Zoning Ordinance Development Standard | Proposed for Approval the Preliminary Plan | Verified | Date |
| Minimum Lot Area | 1,500 sq. ft. ¹ | 1,158 sq. ft. is minimum proposed ² | NB | 6/29/07 |
| Lot Width | Not Specified ³ | 18 ft. is minimum proposed | NB | 6/29/07 |
| Lot Frontage | Not Specified ³ | 18 ft. is minimum proposed | NB | 6/29/07 |
| Setbacks | | | | 6/29/07 |
| Front | Not Specified ³ | Must meet minimum ³ | NB | 6/29/07 |
| Side | Not Specified ³ | Must meet minimum ³ | NB | 6/29/07 |
| Rear | Not Specified ³ | Must meet minimum ³ | NB | 6/29/07 |
| Height | 40 feet | May not exceed maximum | NB | 6/29/07 |
| Max Resid'l d.u. per Zoning | 4.6 Units per acre | 4.6 Units per acre | NB | 6/29/07 |
| MPDUs | 15% | 15% | NB | 6/29/07 |
| TDRs | 8 minimum | 11 | NB | 6/29/07 |
| Site Plan Req'd? | Yes | | NB | 6/29/07 |
| FINDINGS | | | | |
| SUBDIVISION | | | | |
| Lot frontage on Public Street | No | | NB | 6/29/07 |
| Road dedication and frontage improvements | N/a | | Agency letter | 11/7/06 |
| Environmental Guidelines | Yes | | Staff memo | 6/19/07 |
| Forest Conservation | Yes | | Staff memo | 6/19/07 |
| Master Plan Compliance | Yes | | Staff memo | 4/18/07 |
| ADEQUATE PUBLIC FACILITIES | | | | |
| Stormwater Management | Yes | | Agency letter | 2/2/07 |
| Water and Sewer (WSSC) | Yes | | Agency comments | 11/6/06 |
| Well and Septic | N/a | | Agency comments | 11/6/06 |
| Local Area Traffic Review | Yes | | Staff memo | 6/20/07 |
| Fire and Rescue | Yes | | Agency letter | 12/13/06 |

¹ May be reduced by the Planning Board as part of the required 59-D-3 site plan review.

² Planning Board must approve smaller lot size as part of the required 59-D-3 site plan review.

³ Setbacks will be established by the required 59-D-3 site plan review.

BURN BRAE PROPERTY (120070260)



Map compiled on October 27, 2006 at 3:59 PM | Site located on base sheet no - 22ONE04

NOTICE

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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

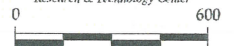
Key Map



N



Research & Technology Center



1 inch = 600 feet
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Attachment C

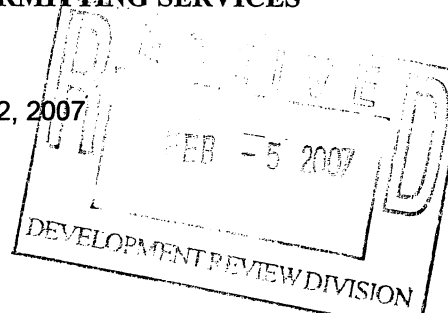
DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

February 2, 2007

Reginald Jetter
Acting Director

Mr. Brian Lewandowski
Gutschick, Little & Weber, P.A.
3909 National Drive, Suite 250
Burtonsville, MD 20886



Re: Stormwater Management **CONCEPT** Request
for Burn Brae Property
Preliminary Plan #: 1-07026
SM File #: 224273
Tract Size/Zone: 11.5 acres / R-90 TDR
Total Concept Area: 11.5 acres
Lots/Block: N/A
Parcel(s): N581
Watershed: Little Paint Branch

Dear Mr. Lewandowski:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via construction of a detention pond; on-site water quality control via construction of a Bio Filter and two Montgomery County Sand Filters (MCSF's). Onsite recharge is not required for redevelopment projects.

The following items will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.

This list may not be all-inclusive and may change based on available information at the time.

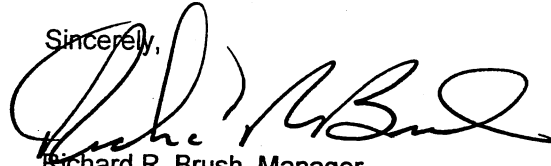
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.



If you have any questions regarding these actions, please feel free to contact Mark Etheridge at 240-777-6338.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard R. Brush", written over the word "Sincerely,".

Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm mce

cc: C. Conlon
S. Federline
SM File # 224273

QN - ON; Acres: 11.5
QL - ON; Acres: 11.5
Recharge is not provided



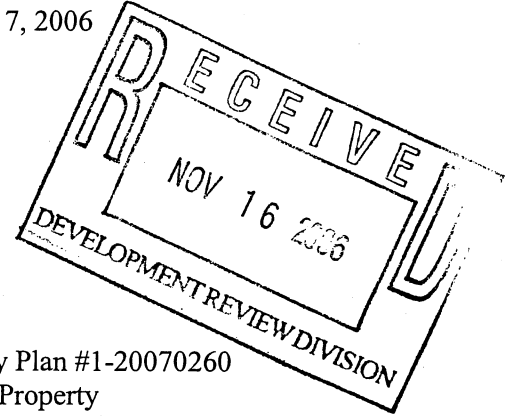
DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

Arthur Holmes, Jr.
Director

November 7, 2006

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760



RE: Preliminary Plan #1-20070260
Burn Brae Property

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated 10/17/06. This plan was reviewed by the Development Review Committee at its meeting on 11/06/06. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Show/label all existing planimetric and topographic details specifically storm drainage, sidewalks and/or bikeways as well as existing rights of way on both sides and easements on the preliminary plan. Note that Blackburn Lane (service road) does not have a separate right of way and is within Columbia Pike overall right of way.
2. Necessary dedication for Columbia Pike in accordance with the Master Plan.
3. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
4. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
5. Waiver from the Montgomery County Planning Board for lot(s) on a private right of way.
6. In accordance with Section 49-35(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided along the site frontage according to associated DPWT standard street section unless the applicant is able to obtain a waiver from the appropriate government agency.



Division of Operations

7. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
8. In accordance with Section 50-35(n) of the Montgomery County Code, we recommend the Montgomery County Planning Board require the applicant to construct sidewalk along the interior private street and on Blackburn Lane to Blackburn Road and out to MD 29.
9. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of the largest vehicle expected to frequent the site. However Driveways curb returns should not cross the property lines. Also provide proper spacing between the driveways curb returns and public utilities features.
10. The proposed private streets must be sufficiently wide to accommodate two-way vehicular traffic. Private streets are to be designed to allow an SU-30 truck to circulate without crossing the centerline nor the curbline.
11. The applicant needs to submit a truck circulation plan for review by the M-NCPPC and MCDPS. This plan should delineate the proposed movements on-site between the anticipated access locations, the proposed truck loading spaces, and the proposed dumpsters. The truck circulation pattern and loading position should be designed for counter-clockwise entry and for a left-side backing maneuver. Passenger vehicle travel ways should be separated from the expected truck patterns and storage areas. The applicant may also need to provide documentation of their proposed delivery schedules.
12. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans With Disabilities Act.
13. Where perpendicular parking spaces border a sidewalk, a two (2) foot vehicle overhang is assumed. The applicant should either provide a seven (7) foot wide sidewalk or wheelstops within those parking spaces.
14. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
15. Access and improvements along Columbia Pike (MD 29) as required by the Maryland State Highway Administration.
16. Geometrics for the intersection of the internal private road and Blackburn Lane will be reviewed by the Department of Permitting Services as part of their review of the building permit application. Included in that review will be the design of any necessary left turn storage lanes and/or acceleration/deceleration lanes. We advise the applicant to submit their traffic volume data to the DPS Right-of-Way Permitting and Plan Review Section (in advance of their building permit applications) to verify their intersection improvement requirements and the acceptability of their design.

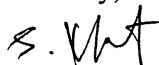
17. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
18. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
19. Trees in the County rights of way - species and spacing to be in accordance with the applicable DPWT standards. A tree planting permit is required from the Maryland Department of Natural Resources, State Forester's Office [(301) 854-6060], to plant trees within the public right of way.
20. Please coordinate with Department of Fire and Rescue about their requirements for emergency vehicle access.
21. Provide driveway access for the stormwater management facilities per associated DPS guidelines.
22. Please coordinate with DPWT division of Transit Services about their requirements and project impacts on their network.
This includes bus pads for shelter installations on Blackburn Road nearside of Blackburn Lane and on southbound Columbia Pike nearside of Blackburn Road. Pads are to be 6' x 22' with pedestrian sidewalk connections.
23. Existing proposal for intersection of Blackburn Lane and Blackburn Road will not be functional due to the fact that large vehicles will not be able to make u-turns on Blackburn Road. Mountable curb can not be a permanent solution for this problem. Also quantity of total u-turns at the island may be a problem and is currently unknown. Further comments in this regard will be provided after the review of traffic study.
24. Public Improvements Agreement (PIA) will be an acceptable method of ensuring construction of the required public improvements within the County right of way. The PIA details will be determined at the record plat stage. The PIA will include, but not necessarily be limited to, the following improvements:
 - A. Construct four (4) foot wide concrete sidewalk along the site frontage.
 - B. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
 - C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
 - D. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Ms. Catherine Conlon
Preliminary Plan No. 1-20070260
Date November 7, 2006
Page 4

E. Additional road improvements may be required as a result of review of a traffic study.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Sam Farhadi, P.E., Senior Planning Specialist
Development Review Group
Traffic Engineering and Operations Section
Division of Operations

m:/subdivision/farhas01/preliminary plans/ 1-20070260, Burn Brae Property.doc

Enclosures (1)

cc: Tom Hudson, KB Burn Brae Land
Kevin Foster, Gutschick, Little & Weber
Stacy Silber, Holland & Knight
Joseph Y. Cheung; DPS RWPPR
Sarah Navid; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Gregory Leck, DPWT TEOS
Raymond Burns, MSHA
Preliminary Plan Folder
Preliminary Plans Note Book



FIRE MARSHAL COMMENTS

DATE: 12-13-06
TO: PLANNING BOARD, MONTGOMERY COUNTY
FROM: TYLER MOSMAN
RE: BURN BRAE PROPERTY #120070260.

PLAN APPROVED provided the following conditions are met:

1. A traffic order establishing a fire lane must be in place prior to occupancy of any part of this community.
-
1. Review based only upon information contained on the plan submitted 12-11-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
 2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

Cc: MC Department of Permitting Services
Design Professional

Revised: 12/16/2005



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

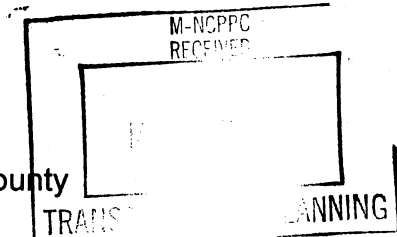
State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

May 2, 2007

Re: Montgomery County
US 29
Burnbrae Property



Mr. Shahriar Etemadi
Transportation Coordinator
M-NCPPC
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Mr. Etemadi:

Thank you for the opportunity to review the Revised Traffic Impact Study Report by The Traffic Group, Inc. dated March 23, 2007 (received by the EAPD on April 2, 2007) that was prepared for the proposed Burnbrae Dinner Theater Property in Montgomery County, Maryland. The major report findings and the Maryland State Highway Administration (SHA) comments and conclusions are as follows:

- Access to the 64 Townhouse Units is proposed from one (1) full movement site access driveway on Blackburn Lane (a County roadway).
- The traffic report determined that the proposed development would negatively impact the US 29 at Blackburn Road intersection. Therefore, the traffic report proposed to widen the eastbound Blackburn Road approach from the existing 1 left/through/right lane -to- 1 left turn lane and 1 through/right lane.
- As part of the roadway improvements at the US 29/Blackburn Road intersection, a new directional guide sign was proposed along eastbound Blackburn Road. The proposed sign shown in the report will require modifications since the directional arrow for northbound US 29 appears to be guiding motorists to travel in the wrong direction along US 29. Any new directional guide signs will need to be coordinated and approved by the Office of Traffic & Safety and the District 3 Office.

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com

SHA concurs with the proposed roadway improvements at the US 29/Blackburn Road intersection (with the exception of the proposed guide sign as noted above). In addition, SHA recommends that a "NO TURN ON RED" sign be placed along the northbound US 29 approach at the US 29/Blackburn Road intersection so that northbound US 29 to northbound Blackburn Lane turning movements will be prohibited during the red signal phase of US 29.

Therefore, in conclusion, SHA recommends that the M-NCPPC condition the applicant to design and construct the roadway improvements at the US 29/Blackburn Road intersection as described above. Roadway improvement plans and traffic signal modification plans should be submitted to SHA for our review and comment.

Unless specifically indicated in SHA's response on this report, the comments contained herewith do not supersede previous comments made on this development application. If there are any questions on any issue requiring a permit from SHA on this application, please contact Raymond Burns at (410) 545-5592 or rburns1@sha.state.md.us. If you have any questions or comments regarding the enclosed traffic report comments, please contact Larry Green at (410) 995-0090 x20.

Sincerely,



Steven D. Foster, Chief
Engineering Access Permits Division

cc: Mr. Raymond Burns, SHA EAPD
Mr. Glenn Cook, The Traffic Group, Inc.
Mr. Cherian Eapen, M-NCPPC Montgomery County
Mr. Robert French, SHA Office of Traffic & Safety
Mr. Larry Green, Daniel Consultants, Inc.
Mr. David Little, GLW P.A., 3909 National Drive, Burtonsville, MD 20866
Mr. Errol Stoute, SHA Traffic Development & Support Division
Mr. Morteza Tadayon, SHA Travel Forecasting Section
Mr. Jeff Wentz, SHA District 3 Office