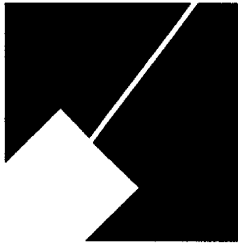


M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)

**Agenda Date: June 12, 2008**  
**Item # 5**  
**Reconsideration Request**

OFFICE OF  
THE GENERAL COUNSEL

(301) 495-4646  
FAX (301) 495-2173

June 6, 2008

**REQUEST FOR RECONSIDERATION**

**MEMORANDUM**

TO: Montgomery County Planning Board

VIA: Debra Yerg Daniel, Associate General Counsel *MD*  
301.495.4646

FROM: David B. Lieb, Associate General Counsel *DM*  
301.495.4646

RE: Reconsideration Request for Strawberry Knoll ,  
Preliminary Plan No. 120061220

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With this memorandum we forward for the Board's review a request for reconsideration of the Strawberry Knoll preliminary plan approval, Preliminary Plan No. 120061220, received from the Planning Board's staff.

**I. BACKGROUND**

On September 20, 2007, the Board approved the Strawberry Knoll preliminary plan on motion of Commissioner Bryant, seconded by Commissioner Lynch, and Commissioners Hanson, Robinson, Bryant, Cryor, and Lynch voting in favor. Following the hearing, the Board's staff came to the realization that the original staff report on which the approval was based failed to identify the Strawberry Knolls subdivision as a resubdivision. Therefore, the Board did not make the findings necessary to approve a resubdivision.

The staff have prepared a memo to the Planning Board requesting reconsideration of the Board's previous vote to allow the Board to reopen the record to

take evidence and make findings on the resubdivision issue. Because no resolution has been issued yet, this reconsideration request is timely.<sup>1</sup>

## **II. APPLICABLE RULES**

A reconsideration request must “specify any alleged errors of fact or law and state fully all grounds for reconsideration because of mistake, inadvertence, surprise, fraud, or other good cause.” The Board is responsible for determining if the grounds stated in support of the reconsideration request are sufficient to merit reconsideration.

Only a Board member who voted in the majority of the decision that is the subject of the request for reconsideration can move to reconsider the decision. If there is no motion for reconsideration, the request for reconsideration is denied. Any motion to reconsider must be supported by a majority of the Board members present who either participated in the previous decision or read the record on which it was based.

## **IV. RECOMMENDATION**

Because the Strawberry Knolls preliminary plan was not presented as a resubdivision, and therefore the Board did not make the findings necessary to approve a resubdivision, reconsideration is justified in this case on the basis of mistake and inadvertence.

## **IV. ATTACHMENTS**

Memo from the Planning Director to the Board requesting reconsideration of Strawberry Knoll Preliminary Plan approval.

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<sup>1</sup> The Rules of Procedure contemplate reconsideration requests being made after a resolution has been issued. But, under the circumstances of this case, where staff has discovered that the original staff report did not properly describe the nature of the approvals required, we think it is appropriate for the Board to entertain a reconsideration request before the resolution has been issued.



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

Agenda Date: June 12, 2008  
Agenda Item No.

**MEMORANDUM**

TO: Montgomery County Planning Board

FROM: Rollin Stanley, Planning Director *RS*

VIA: Rose Krasnow, Chief *RK YL*  
Catherine Conlon, Supervisor *CAC*  
Richard Weaver, Planner Coordinator (301) 495-4544 *RAW*  
Development Review Division

Re: Request to Reconsider Planning Board Decision on Preliminary Plan No.  
120061220 Strawberry Knoll

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On September 20, 2007, a preliminary plan for Strawberry Knolls, Plan No. 120061220, was brought before the Planning Board. Based on the information provided in the original staff report (Attachment A) and after listening to testimony from interested citizens, the Board voted unanimously to approve the thirteen (13) requested lots using the R-200 TDR-4 development option. Subsequent to this decision, and prior to a resolution being adopted by the Board, staff realized that the original staff report failed to recognize this application as a resubdivision and did not include the proper resubdivision analysis pursuant to Section 50-29(b)(2) of the Montgomery County Subdivision Regulations. Since this development involves previously subdivided property for which the Board must make specific findings regarding the resubdivision criteria, staff requests reconsideration of the previous action on the plan so that this analysis can be done. If the Board concurs, staff will schedule the item for the next available hearing date.



# MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**

**Item #**

**9/20/07**



## MEMORANDUM

**DATE:** August 31, 2007

**TO:** Montgomery County Planning Board

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

**FROM:** Richard A. Weaver, Coordinator (301) 495-4544 *RAW*  
Development Review Division

**REVIEW TYPE:** Preliminary Plan of Subdivision

**APPLYING FOR:** Thirteen (13) lots to construct 13 one-family dwelling units using the R-200/TDR optional method of development.

**PROJECT NAME:** Strawberry Knoll  
**CASE #:** 120061220

**REVIEW BASIS:** Chapter 50, Montgomery County Subdivision Regulations

**ZONE:** R-200/TDR-4  
**LOCATION:** On the east side of Strawberry Knoll Road, opposite the intersection with Quail Valley Boulevard  
**MASTER PLAN:** Gaithersburg and Vicinity

**APPLICANT:** Memon Enterprises, L.L.C.  
**ENGINEER:** Maddox Engineers & Surveyors, Inc.

**FILING DATE:** May 26, 2006  
**HEARING DATE:** September 20, 2007

**RECOMMENDATION:** Approval of thirteen (13) lots, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 13 lots for 13 one family detached residential dwelling units.
- 2) The proposed development shall comply with the conditions of the preliminary forest conservation plan. The applicant shall 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.
- 3) Record Plat shall reflect all areas under Homeowners Association control and specifically identify stormwater management parcels.
- 4) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan.
- 5) The applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
- 6) The record plat(s) must reflect serialization and liber/folio reference for all TDRs utilized by the development.
- 7) The record plat must reflect a Category I conservation easement over all areas of stream valley buffers and forest conservation areas.
- 8) The applicant shall comply with the conditions of the MCDPS stormwater management approval dated May 9, 2007.
- 9) The applicant shall comply with the conditions of the MCDPWT approval dated June 26, 2007, unless otherwise amended.
- 10) The record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant must provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 11) No clearing, grading or recording of plat(s) prior to certified site plan approval.
- 12) Final approval of the number and location of dwelling units, site circulation, and sidewalks will be determined at site plan. Sidewalk connection from Traxell Way to Strawberry Knoll Road to be investigated at the time of Site Plan.
- 13) Final number of TDR's as per condition # 1 above to be determined at the time of site plan.
- 14) 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.
- 15) Other necessary easements will be included on the record plat.

**I. SITE DESCRIPTION**

The 4.11-acre property "Subject Property" or "Property" is zoned R-200 with a TDR-4 overlay and is located on the east side of Strawberry Knoll Road, opposite the intersection with Quail Valley Boulevard in the Gaithersburg and Vicinity Master Plan area. The property is currently occupied by two one family residences. There are no streams on the Property,

however; there is an off-site stream (Use I-P) adjacent to the eastern boundary. A portion of the stream valley buffer (0.53 acres) for this stream is located on the Property. There is no forest on the site.

Adjacent uses are all residential with one family attached development to the north and west, and one family detached dwellings to the south and east. The aforementioned stream is contained within MNCPPC Property along the eastern border.

(Attachment A- Vicinity Map)

## **II. PROJECT DESCRIPTION**

The applicant proposes to remove the two existing houses and create thirteen lots ranging in size from 6,050 square feet to 16,950 square feet. Access to nine of the thirteen lots is proposed via an extension of Traxwell Way that will terminate on the property as a cul-de-sac. Four of the lots will have direct access to Strawberry Knoll Road. Community water and sewer will be provided to the homes. A homeowner's association parcel is to be located on the eastern edge of the site and will include the stream valley buffer and reforestation planting area required by the forest conservation plan.

The project is zoned R-200/TDR; the Gaithersburg and Vicinity Master Plan recommends this property as a TDR receiving are with a density of 4 units per acre. Therefore, under Section 59-C-1.395 of the Montgomery County Zoning Ordinance "Zoning Ordinance" the plan can develop using the R-60 MPDU standards which allows lots as small as 6,000 square feet (Sec. 59-C-1.625). When using TDR's, Section 59-C-1.393(b) of the Zoning Ordinance requires that a development must include at least two-thirds of the number of TDR's permitted to be transferred to the property. For this 4.11 acre Property, the maximum number of lots permitted under the base R-200 zoning classification is 8. Utilizing the TDR-4 designation, the maximum number of lots permitted is 16. The difference between the base yield and the TDR yield is, therefore; 8, meaning that 8 TDR's is the maximum number that are permitted to be transferred to the site. Two-thirds of 8 equals 4.8, or 5 TDR's that must be used on this site. This application proposes that 5 TDR's will be used to achieve the requested lot yield of 13.

(Attachment B -- Proposed Development Plan)

## **III. ANALYSIS AND FINDINGS**

### **A. Master Plan Compliance**

The Gaithersburg and Vicinity Master Plan does not make specific recommendations of the type of development that is appropriate on the Subject Property other than to specify this Property as suitable for TDR development at the density of 4 units per acre. The proposed subdivision complies with the recommendations adopted in the Master Plan in that it proposes one-family detached housing consistent with the current density of the neighborhood along Traxell Way.

## **B. Adequate Public Facilities**

### **Roads and Public Transportation Facilities**

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours, therefore; the application is not subject to Local Area Transportation Review. A traffic statement was submitted and accepted by staff.

The subdivision will rely on the Traxell Road cul-de-sac for access to Strawberry Knoll Road. Traxell Road, a tertiary street, will be adequate to serve all of the existing and proposed units on it. New sidewalks will be built on both sides of the new road to connect to those that already exist. Pedestrian access can be adequately accommodated with the proposed sidewalk connections, however; an additional sidewalk linkage may be desirable from some point along the newly constructed portion of Traxell Road to Strawberry Knoll Road. The decision to locate a sidewalk somewhere through the new subdivision out to Strawberry Knoll Road should be studied at Site Plan to evaluate compatibility with respect to adjacent homes and new homes.

### **Overlength Cul-de-Sac**

The application proposes the completion of Traxell Way as a cul-de-sac that exceeds 500 feet in length, which is defined in the Subdivision regulations as "overlength". Pursuant to Section 50-26(d) of the Subdivision Regulations, the Planning Board must find justification for use of an overlength cul-de-sac based on the property's shape, size, topography, large lot size, or the improved street alignment. Traxell Way is an existing improved street that will be continued on to the site for its primary access.

Staff considered how Traxell Way could be looped through the Property and back out to Strawberry Knoll Road to avoid a cul-de-sac. DPWT advised that, in recognition that Strawberry Knoll Road is a primary residential street, the preferred intersection from a safety perspective would be for Traxell Way to align with Quail Valley Boulevard. However, this alignment is not possible because the applicant does not have control of the property (Lot 3, Strawberry Knoll) needed to make this connection at this location. The alternative was to push the intersection to the north where Traxell Way would intersect Strawberry Knoll Road north of Quail Valley Road. According to MMCDPWT road design criteria, the distance of separation between two intersecting streets on a primary residential street must be 100 feet from curb return to curb return. For this project, it was not possible to accommodate this spacing requirement and the review agencies could not support an additional intersection with Strawberry Knoll Road. The minimal intersection separation distances are necessary to avoid unsafe traffic conditions.

The cul-de-sac has been reviewed for emergency access and approved by the Department of Fire and Rescue Services. The cul-de-sac does not preclude subdivision of any surrounding properties. The existing road patterns in the surrounding area dictate that the cul-de-sac is the appropriate method to serve the Subject Property and will result in an improved street alignment. Staff supports the overlength cul-de-sac.

## **Other Public Facilities and Services**

Public facilities and services are available and will be adequate to serve the proposed units. Public sewer and water service are available to the Property. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. All other local utilities such as, electrical and telecommunications services are also available to serve the Property.

### **C. Environment**

#### **Forest Conservation**

There is no forest on-site. Planting requirements of 0.62 acres will be met within the stream valley buffer on the Property.

#### **Environmental Buffers**

The site includes the previously discussed environmental (stream valley) buffer. The buffer, and reforestation areas, will be protected by a Category I easement as required by condition #7.

### **D. Compliance with the Subdivision Regulations and Zoning Ordinance**

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-60 Zone using the MPDU standards (Sec. 59-C-1.625) 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 Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan

(Attachment C – Agency Correspondence).

### **E. Citizen Correspondence and Issues**

This application was submitted prior to any requirement for applicants to hold pre-submission meeting with interested citizens. At the time of submission, the plan was mailed out to all adjacent and confronting property owners and local civic and homeowners associations. The plan was also correctly noticed for public hearing.

Staff has been in contact with the Meadowvale Estates H.O.A. to keep them informed of the progress of the plan. No specific comments on the plan were received from this or any other group.



## **CONCLUSION**

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance, and comply with the recommendations of the Gaithersburg and Vicinity 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. Approval of the application with the conditions specified above is recommended.

## **Attachments**

Attachment A – Vicinity Map

Attachment B – Proposed Development Plan

Attachment C – Agency Correspondence Referenced in Conditions

<b>Plan Name: Strawberry Knoll</b>				
<b>Plan Number: 120061220</b>				
<b>Zoning: R-200/TDR</b>				
<b># of Lots: 13</b>				
<b># of Outlots: 0</b>				
<b>Dev. Type: Residential</b>				
<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard<sup>1</sup></b>	<b>Proposed for Approval on the Preliminary Plan</b>	<b>Verified</b>	<b>Date</b>
Minimum Lot Area	4,000 sq. ft.	6,050 s.f is minimum proposed	RW	9/7/07
Lot Width		Est. by site plan	RW	9/7/07
Lot Frontage	25 ft.	Must meet minimum	RW	9/7/07
Setbacks				9/7/07
Front	20 ft. Min.	Must meet minimum	RW	9/7/07
Side	Must meet adjacent zone	Must meet minimum	RW	9/7/07
Rear	Must meet adjacent zone	Must meet minimum	RW	9/7/07
Height	40 feet or as specified in Sec. 59-C-1.626	May not exceed maximum	RW	9/7/07
Max Resid'l d.u. per Zoning	25 dwelling units	13 dwelling units	RW	9/7/07
MPDUs	No			9/7/07
TDRs	Yes			9/7/07
Site Plan Req'd?	Yes			9/7/07
<b>FINDINGS</b>				
<b>SUBDIVISION</b>				
Lot frontage on Public Street	Yes		RW	9/7/07
Road dedication and frontage improvements	Yes		RW	9/7/07
Environmental Guidelines	Yes		Staff memo	3/15/07
Forest Conservation	Yes		Staff memo	3/15/07
Master Plan Compliance	Yes		RW	9/7/07
<b>ADEQUATE PUBLIC FACILITIES</b>				
Stormwater Management	Yes		Agency letter	5/9/07
Water and Sewer (WSSC)	Yes		Agency Comments	6/19/06
Fire and Rescue	Yes		Agency Letter	6/19/06
Local Area Traffic Review	N/A			

<sup>1</sup> TDR development may use R-60MPDU standards

# STRAWBERRY KNOLL (120061220)

Attachment "A"



Map compiled on June 09, 2006 at 9:13 AM | Site located on base sheet no - 225NW09

## NOTICE

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This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map

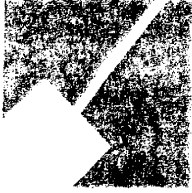


Research & Technology Center



1 inch = 600 feet  
1 : 7200





**THE MARYLAND-NATIONAL CAPITAL PARK AND  
PLANNING COMMISSION**

Department of Park & Planning, Montgomery County, Maryland  
8787 Georgia Avenue, Silver Spring, Maryland 20910

**MEMORANDUM**

TO: Cathy Conlon, Supervisor, Development Review

VIA: Stephen Federline, Supervisor, Environmental Planning *DF*

FROM: Josh Penn, Environmental Planning *JP*

DATE: May 17, 2007

SUBJECT: Preliminary Plan: #120061220 – Strawberry Knoll

The Environmental Planning staff has reviewed the preliminary plan referenced above. Staff recommends approval of the preliminary plan of subdivision with the following conditions:

1) Compliance with all conditions of approval of the preliminary forest conservation plan per Environmental Planning memo and plan signed March 31, 2006. The applicant shall satisfy all conditions prior to recording of plat (s), or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.

- 1- Submittal of financial security to M-NCPPC prior to clearing or grading.
- 2- Required site inspections by M-NCPPC enforcement staff per Section 110 of the Forest Conservation Regulations.
- 3- Maintenance and management agreement to be reviewed and approved by M-NCPPC staff prior to first inspection of planted areas.

2) Record plat of subdivision shall reflect a Category I forest conservation easement over all protected forest and environmental buffer areas as shown on the PFCP.

**DISCUSSION**

The Strawberry Knoll property is a 4.11-acre site northeast of the intersection of Emory Grove Road and Strawberry Knoll. The site is in the Use I Great Seneca Creek watershed. There is a stream immediately offsite along the eastern property boundary. There is 0.53 acres of Stream Valley Buffer on-site. There is no forest onsite. The property is zoned R-200/TDR-4.

### **Environmental Guidelines**

Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #4-06186 was approved on April 3, 2006. The NRI/FSD identifies the environmental constraints on the subject property. The 4.11-acre site has one stream immediately along the eastern boundary and no forest.

### **Forest Conservation**

The applicant submitted a preliminary forest conservation plan as part of the preliminary plan of subdivision. The applicant will meet the afforestation threshold by planting 0.62 acres of forest on the property within the Stream valley Buffer. This forest will be permanently protected by a Category I forest conservation easement.

### **STAFF RECOMMENDATION**

Environmental Planning staff recommends approval of the preliminary plan of subdivision and the preliminary forest conservation plan. The plan complies with Section 22A of the Montgomery County Code and the M-NCPPC Environmental Guidelines.