



Staff Report: Site Plan 820080090 Burn Brae Property

ITEM #: _____

MCPB HEARING

DATE: July 24, 2008

REPORT DATE: July 14, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Robert Kronenberg, Supervisor *RAK*
Development Review Division

FROM: Elza Hisel-McCoy, Assoc. AIA, LEED-AP *EH*
Coordinator
Development Review Division
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APPLICATION

DESCRIPTION: Approval of 63 townhouses, including 10 MPDUs and 11 TDRs, on 11.51 acres in the R-90/TDR Zone; located on the east side of Blackburn Lane, 150 feet north of the intersection of Blackburn Road in the Fairland Master Plan

APPLICANT: KB Burn Brae Land, LLC

FILING DATE: October 15, 2007

RECOMMENDATION: Approval with conditions

EXECUTIVE

SUMMARY: The proposed development contains 63 townhouses around a central recreation area. Vehicular access to the community is from Blackburn Lane.

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SITE DESCRIPTION

Vicinity

The subject property is located on the east side of Blackburn Lane, 150 feet north of the intersection of Blackburn Road. Properties north of the site are multi-family residential buildings in the R-20 Zone, properties south and west of the site are townhouses in the R-90/TDR Zone, and to the east is the M-NCPPC Fairland Recreational Park. The portion of the park adjacent to this development contains a wooded stream valley and is undeveloped.



Aerial Photo

Site Analysis

The site currently contains a religious institution consisting of several buildings and a parking lot (formerly the Burn Brae Dinner Theatre), all of which will be removed to accommodate the development.

The property is located within the Little Paint Branch watershed. 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 off-site, but does run through the site for short stretches. The buffers associated with these streams form a crescent shape along the northern, southern, and eastern boundaries of the site. 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.

PROJECT DESCRIPTION

Previous Approvals

On June 8, 2006, the Planning Board held a Pre-Preliminary Plan hearing to discuss the TDR level appropriate to this site. The Board concurred with staff that the maximum TDR density for the site should be 4.6 dwelling units per acre. On July 12, 2007, the Planning Board approved Preliminary Plan #120070260 for a maximum of 63 townhouse units, including 11 TDRs.

Proposal



Site Plan

The Site Plan proposes 63 townhouse units, including 10 MPDUs and 11 TDRs, distributed around a central residential green. Vehicular access to the site is provided via a private road from Blackburn Lane, adjacent to Columbia Pike (MD29). Where possible, the units are alley-loaded, but the plan also contains front-loaded units. The plan provides integrated tuck-under parking for each of the townhouse units, and visitor parking on-street and around the central

green. The plan provides sidewalks on both sides of each of the internal streets and on one side of the private access road out to Blackburn Lane.

PROJECT ANALYSIS

Master Plan

The subject site is located within the Blackburn Road area of the 1997 Fairland Master Plan. The Master Plan does not specifically discuss this property but does set the TDR density for this property at 4.6 dwelling units per acre, as it does for all R-90/TDR property in the Fairland Master Plan. As discussed at Preliminary Plan, the number of units in the site design is consistent with the TDR density recommended in the Master Plan, and per the Master Plan further supports the development of one-family dwellings.

Transportation

Transportation Planning staff completed a local area transportation review (LATR) as part of the Preliminary Plan review. Since this application was submitted after January 1, 2007, it will be subject to a policy area mobility review (PAMR) at time of building permit.

Environment

All environmental issues were addressed at Preliminary Plan. The Applicant has an approved NRI/FSD dated March 8, 2006, and amended June 15, 2007, and an approved Preliminary Forest Conservation Plan. The Final Forest Conservation Plan will be completed before Certified Site Plan.

Development Standards

This property is located in the R-90/TDR Zone, intended to allow one-family residential development. The following data table indicates the proposed development’s compliance with the Zoning Ordinance.

Project Data Table for the R-90/TDR 4.6 Zone

Development Standard	Permitted/Required	Proposed for Approval
Lot Area (gross acres)	n/a	11.51
Max. Density, incl. TDR (du/a)	4.6	4.6
Min. MPDUs (% of total du)	12.5	15
Max. Dwelling Units, incl. 22% bonus for providing 15% MPDUs	63	63
<i>Market Rate</i>		53
<i>MPDUs</i>		10

Min. TDRs (units)	8	11
<i>Base density = 11.51 ac x 3.6 du/ac = 41 du</i>		
<i>w/ TDR 4.6: 11.51 ac. x 4.6 du/ac = 52 du</i>		
<i>Required TDR: 52 du – 41 du = 11 TDR</i>		
<i>Min. TDR = 11 TDR x 2/3 = 8 TDR</i>		
Min. Unit Type Distribution (%)		
<i>One-Family Detached</i>	30	0
<i>One-Family Townhouse</i>	Permitted	100 ¹
<i>Multi-Family</i>	Not Permitted	0
Min. Building Setbacks (ft.)		
<i>Front</i>	Not Specified	
<i>Front-Loaded Garage</i>		10
<i>Rear-Loaded Garage</i>		5
<i>Rear</i>	Not Specified	10
<i>Side (interior)</i>	Not Specified	0
<i>Side (end unit)</i>	Not Specified	4
<i>Setback from a one-family detached residential development per the PD zone</i>	100	100
Max. Building Height (ft.)		
	Not Specified	45 ²
Min. Lot Area (sf.)		
	Not Specified	900
Min. Lot Width (ft.)		
	Not Specified	16
Max. Parking Spaces		
	116	135
Min. Green Area (%)		
	35	52
Min. Green Area (acres)		
	4.03	6

¹ At Preliminary Plan, the Planning Board granted a waiver under Section 59-C-1.395, Footnote 1, to allow 100 percent townhouses.

² Measured from the average grade along the front of the unit. No units front on public streets.

Recreation Tabulation

63 Townhouses	Tots	Children	Teens	Adult	Seniors
Demand	10.71	13.86	11.34	81.27	4.41
Supply					
<i>Pedestrian System</i>	1.07	2.77	2.27	36.57	1.98
<i>Natural Areas</i>	0	0.69	1.13	8.13	0.22
<i>Type II Open Play</i>	3	4	4	10	1
<i>Tot Lot</i>	9	2	0	4	1
<i>Play Lot</i>	0	9	3	4	1
<i>Sitting Areas (3)</i>	3	3	4.5	15	6
Total Supply	16.07	21.46	14.9	77.7	11.2
Percent of Demand Met On-Site	150	155	131	96	254

COMMUNITY OUTREACH

On October 16, 2007, the Applicant sent notice of this Site Plan application to all parties of record and adjacent and confronting property owners. The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has received no correspondence on this Site Plan.

FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

Neither a development plan, diagrammatic plan, schematic development plan, nor project plan were required for the subject site.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56;*

The Site Plan meets all the requirements of the R-90/TDR zone, including the development standards as demonstrated in the Data Table above.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

Locations of Buildings and Structures

The one-family dwelling units are located on private streets surrounding a central residential green. The buildings are sited close to the streets, helping to form a pedestrian-oriented community. The retaining walls required for the behind the units on the east end of the site are well situated. All of the buildings and retaining walls are

located outside of any stream valley buffers. The locations of the buildings and retaining walls are adequate, safe, and efficient.

Open Spaces, Landscaping, and Recreation Areas

Surrounded on three sides by wooded open space, this community centers itself on a common residential green, with attractive landscaping and recreational equipment. The landscaping and lighting along the streets reinforces the pedestrian focus of the neighborhood. The open spaces, landscaping, and recreation areas are adequate, safe, and efficient.

Pedestrian and Vehicular Circulation

Pedestrians will circulate through the neighborhood on an extensive sidewalk network, connecting each resident not only to the common areas, but to each other as well. Though presently there is little to draw the pedestrian out of the development, the Applicant is providing a sidewalk along the private entrance road up to Blackburn Lane and Columbia Pike (MD29). Vehicular access to the site is provided by this private entrance road, which connects to a network of private streets and alleys, the latter of which provide garage access for about half of the units. The pedestrian and vehicular circulation are adequate, safe, and efficient.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed townhouse development is compatible with the surrounding residential uses, foremost the existing townhouse community immediately adjacent. Taller multi-family buildings are visible from the site, but the verdant forest surrounding the development provides significant screening. Further, this development is setback a minimum of 100 feet from adjacent one-family detached residential development, as required under PD-Zone compatibility.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The Department of Permitting Services approved the stormwater concept for this site on February 2, 2007. The concept includes on-site management of stormwater quality and quantity through sandfilters and surface detention.

The Planning Board approved a preliminary forest conservation plan in conjunction with the preliminary plan of subdivision. The applicant submitted a final forest conservation plan with the site plan that is consistent with approved preliminary forest conservation plan. The Final Forest Conservation Plan will be complete by Certified Site Plan.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of Site Plan 820080090, Burn Brae Property, for 63 townhouses, including 10 MPDUs and 11 TDRs on 11.51 gross acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on May 5, 2008, are required except as modified by the following conditions:

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 120070260 as listed in the Planning Board Resolution dated September 17, 2007.

2. Environmental

- a. The proposed development shall comply with the staff recommended conditions of approval for the final forest conservation plan, as per the letter dated July 3, 2008. The applicant shall satisfy all conditions prior to any clearing, grading or demolition on the site. Conditions include, but are not limited to:
- b. Final limits of disturbance for all areas of stream restoration shall be determined by time of certified site plan.
- c. Applicant shall place a category I conservation easement or dedicate to MNCPPC, all areas of environmental/stream valley buffer and forest conservation. Prior to plat recordation, MNCPPC staff must approve any amended language to easements or agreements.

3. MPDUs

- a. The Applicant must provide a minimum of 15 percent of the total number of units as MPDUs, in accordance with the requirements of Chapter 25A.
- b. The Applicant must comply with all conditions of the DHCA Memorandum dated July 10, 2008, regarding this plan.

4. Transportation

- a. The Applicant must provide a sidewalk on the east side of Blackburn Lane along the entire property frontage, to be offset at least 6 feet from the edge of road pavement. In addition, the handicapped ramp at the northeast corner of Blackburn Road and Blackburn Lane will have to be upgraded. Provide street trees as required by MCDOT and MCDPS.
- b. The Applicant must provide a handicapped ramp on the north and south sides of Private Road A at the intersection with Blackburn Lane, as well as a crosswalk connecting the two ramps.
- c. By Certified Site Plan, coordinate final locations for handicapped ramp connections between Private Street D and E, and HOA Open Space Parcel A with Transportation Planning.
- d. Final transportation improvement details to be determined by Certified Site Plan.

5. Development Program

The Applicant must construct the proposed 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 in its phasing schedule:

- a. Street lamps, sidewalks, and street tree planting must be provided within six months after street construction of each townhouse “stick” is completed. However, internal tree planting may wait until the next growing season.
- b. On-site sidewalks, benches, recreation facilities, and installation of the bicycle rack must be installed prior to issuance of the final building permit.
- c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- d. The development program must provide phasing for installation of on-site landscaping and lighting.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

6. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- b. Add a note to the site plan stating that “M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading”.
- c. Modify notes to include M-NCPPC Staff approval required for planting plan substitutions.
- d. Ensure consistency off all details and layout between site plan and landscape plan.
- e. Illustrate the Limits of Disturbance.
- f. Coordinate utility access with WSSC, Verizon, and other utilities.
- g. Show the locations of the MPDUs on all Site Plans.
- h. Coordinate with SHA regarding any necessary improvements at the Columbia Pike/Blackburn Road intersection.

APPENDICES

- A. Preliminary Plan Opinion
- B. Reviewing Agency Approvals



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

SEP 17 2007

MCPB No. 07-149
Preliminary Plan No. 120070260
Burn Brae Property
Date of Hearing: July 12, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 18, 2006, KB Burn Brae, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 64 lots on 11.51 acres of land located on the east side of Blackburn Lane, 150 feet north of the intersection of Blackburn Road ("Property" or "Subject Property"), in the Fairland Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070260, Burn Brae Property ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated June 29, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on July 12, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

APPROVED AS TO LEGAL SUFFICIENCY

[Handwritten Signature] 9/4/07

MNCPPC LEGAL DEPARTMENT

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, on July 12, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Lynch; seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Bryant, Cryor, Hanson, Lynch and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120070260 to create 63 lots on 11.51 acres of land located on the east side of Blackburn Lane, 150 feet north of the intersection of Blackburn Road ("Property" or "Subject Property"), in the Fairland Master Plan area ("Master Plan"), 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 Condition 7 and the sidewalk along Private Street "A" from Blackburn Lane to Lot 7 must be in place prior to the release of the 48th building permit. Remaining sidewalk must be constructed in accordance with the site plan construction phasing.
- 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 DPWT 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) Access and improvements, as required, to be approved by DPWT or SHA, as applicable, prior to recordation of plat(s).

- 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 to M-NCPPC of the approximately 1.6 acre parcel identified as Parcel 'E', as shown on the preliminary plan, for use as parkland. Dedicated land must not include any stormwater management ponds or facilities. Land must be conveyed prior to recordation of the plat and must be transferred free of any trash and unnatural debris. Boundaries must be adequately staked and signed to identify the parkland.
- 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.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

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.

The Planning Board finds, therefore, that the proposed subdivision complies with the recommendations adopted in the Master Plan.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

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 proposed 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. The traffic study provided 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 and showed that, 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.

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

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

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. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

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 Preliminary 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.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

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.

- 6. The maximum permitted number of lots and dwelling units on the site is 63, not the 64 lots and units requested in the application.*

In order to attain compliance with the unit density requirements of the R-90/TDR zone, the Planning Board approved 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 approval 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 Planning Board finds that the maximum permitted density of the site, therefore, is 63 units.

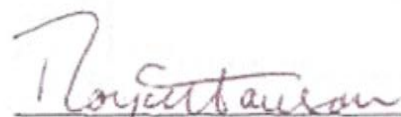
BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is SEP 17 2007 (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).

* * * * *

At its regular meeting, held on Thursday, September 6, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Bryant, seconded by Commissioner Robinson, with Commissioners Hanson, Bryant, Cryor, Lynch, and Robinson voting in favor, ADOPTED the above Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan 120070260 – Burn Brae Property.



Royce Hanson, Chairman
Montgomery County Planning Board

Appendix B: Reviewing Agency Approvals



MEMORANDUM

TO: Elza Hisel-McCoy, Development Review

VIA: Stephen Federline, Supervisor, Environmental Planning

FROM: Amy Lindsey, Environmental Planning

DATE: July 3, 2008

SUBJECT: Site Plan 820080090
Burn Brae Property

RECOMMENDATION:

Environmental Planning staff recommends approval of the site plan subject to the following conditions:

1. The proposed development shall comply with the staff recommended conditions of approval for the final forest conservation plan, as per the letter dated 7/1/2008. The applicant shall satisfy all conditions prior to any clearing, grading or demolition on the site. Conditions include, but are not limited to:
 - a. Final limits of disturbance for all areas of stream restoration shall be determined by time of certified site plan.
2. Applicant shall place a category I conservation easement or dedicate to MNCPPC, all areas of environmental/stream valley buffer and forest conservation. Prior to plat recordation, MNCPPC staff must approve any amended language to easements or agreements.

BACKGROUND

The 11.51-acre property is located in Montgomery County on Blackburn Road in the Fairland Master Plan area. This property is currently developed as the Parker Memorial Baptist Church, which previously served as the Burn Brae Dinner Theatre. This preliminary plan proposes removing the existing structure and constructing 65 new townhomes. Surrounding and confronting uses are a mix of residential and commercial uses. An NRI/FSD was approved by staff on 3/08/2006 and updated on 6/06/2007. The property is within the Little Paint Branch watershed: a Use I watershed.

The property is directly adjacent to Fairland Recreation Park and there are significant environmental features on the site. The Little Paint Branch stream runs north-south along the eastern property line and an unnamed tributary runs east-west across the northern

property line. 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. The site is forested around its perimeter except along the west property line.

There are numerous impacts to the physical environment due to the prior development of this property as the Burn Brae Dinner Theatre. Approximately 2.4 acres of the stream valley buffer has been encroached in with the entry drive, parking lots and cleared slopes. There appears to be no storm water management facilities on this site so the 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.

DISCUSSION

The site is subject to the Forest Conservation Law and a Final Forest Conservation Plan has been submitted. The Planning Board previously approved a preliminary plan of subdivision, 120070260, which included a waiver from the mix of unit types required by Section 59-C-1.621 of the Montgomery County Zoning Code. This waiver was based upon the proposed plan being more desirable from an environmental perspective. The justification of this waiver was based on the ability to use a private road, instead of a public road that would be required with any development including single-family residences. The developer has also proffered additional plantings and stream restoration measures to support the environmental benefits of this development.

Environmental Guidelines

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) to M-NCPPC for review and approval. Environmental Planning staff approved NRI/FSD 4-06141 on March 8, 2006 and amended 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 are all protected by either 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 north 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 encroachment. 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. There is a bioretention facility 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. There are no other stormwater management facilities or drywells proposed for the environmental buffer. All environmental buffers will be included in a Category I forest conservation easement or dedicated to MNCPPC as parkland. The applicant has also proposed stream restoration measures but the details are still being resolved. These details will be resolved and shown on the final forest conservation plan prior to certified site plan.

Forest Conservation

The Planning Board approved a preliminary forest conservation plan in conjunction with the preliminary plan of subdivision. The applicant submitted a final forest conservation plan with the site plan that is consistent with approved preliminary forest conservation plan. There are 3.51 acres of existing forest on the property. The applicant is proposing to remove 0.70 acres, retain 2.81 acres, and plant 1.25 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. Any clearing necessary for the proposed stream restoration projects will be replanted. An additional 0.15 acres of forest will be planted outside the stream valley buffer.

Approximately 1.61 acres of forested and planted stream valley buffer will be dedicated to M-NCPPC as parkland to partially meet forest conservation requirements. The remaining approximately 1.45 acres will be placed in Category 1 forest conservation easements.

Minimum Retention

As per Sec. 22A-12(f)(2)(B), *"In a planned development or a site developed using a cluster or other optional method in a one-family residential zone, on-site forest retention must be equal the applicable conservation threshold in subsection (a).* For this property, the conservation threshold is 20%, or 2.30 acres. This property meets this requirement by retaining 2.81 acres.

Additional measures proposed by the developer to enhance the environment include reforestation of the stream valley buffer. Forest Conservation Law requires no reforestation but the developer has proposed planting 1.26 acres within the stream valley buffer to improve buffer function.



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DEVELOPMENT REVIEW

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

July 10, 2008

Mr. Elza Hisel-McCoy
M-NCPPC - Development Review Division
8787 Georgia Ave.
Silver Spring, MD 20910

Re: Burn Brae Property – Site Plan #820080100

Dear Mr. Hisel-McCoy:

I understand that the above project is scheduled to be heard by the Planning Board within the next few weeks. The developer of the project has provided the Department of Housing and Community Affairs (DHCA) with revised plans in response to comments of the Development Review Committee (DRC). DHCA has no further comments, other than to note that townhouse sticks containing MPDUs will need to be constructed before townhouse sticks containing only market-rate units in order to comply with the MPDU staging requirements of Chapter 25A. DHCA will need further detail in the construction schedule when the developer submits the MPDU Agreement to Build.

If you need further information, please contact me at 240-777-3786.

Sincerely,

Lisa S. Schwartz
Senior Planning Specialist

cc: Tom Hudson, KB Burn Brae Land, LLC
Thomas S. Zyla, Gutschick Little & Weber, P.A.
Joseph T. Giloley, DHCA
Christopher J. Anderson, DHCA

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Division of Housing and Code Enforcement

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Housing Development
and Loan Programs
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Landlord-Tenant Affairs
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