



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

SEP 3 2013

MCPB No. 13-115
Site Plan No.820130140
Kensington Heights
Date of Hearing: July 25, 2013

RESOLUTION

WHEREAS, under Montgomery County Code Division 59-D-3, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, on February 8, 2013 Kensington Heights 2 LLC ("Applicant") filed an application for approval of a site plan for one single-family dwelling unit and twenty-five townhouses on 3.02 acres of RT-8 zoned-land, located at University Boulevard and Valley View Avenue intersection ("Subject Property") in the Wheaton Central Business District and Vicinity Sector Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820130140, Kensington Heights ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board dated July 12, 2013 setting forth its analysis of and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on July 25, 2013 the Planning Board held a public hearing and received testimony and evidence on the Application and

WHEREAS, at the Hearing, the Planning Board, voted to approve the Application subject to certain conditions, as certified below;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820130140 for one single-family dwelling and 25 townhouses, including 13.3%

Approved as to
Legal Sufficiency:

8/7/13 
M-NCPPC Legal Department
www.montgomeryplanningboard.org Phone: 301.495.4605 Fax: 301.495.1320
E-Mail: mcp-chair@mncppc-mc.org

moderately priced dwelling units, on the Subject Property, subject to the following conditions:¹

1. Developing Plan Binding Elements

The development must comply with the binding elements of the Local Map Amendment G-877, approved by the County Council on November 9, 2009, Resolution No. 16-1189.

2. Preliminary Plan Conformance

The proposed development must comply with the conditions of the approved Resolution for Preliminary Plan No. 120100290, unless amended and approved by the Planning Board. This includes but is not limited to all references to density, right-of-way, dedications, easements, transportation conditions, and Department of Permitting Services right of way and stormwater conditions.

3. Final Forest Conservation Plan

The development must comply with the conditions of the approved Final Forest Conservation Plan. The Applicant must satisfy all conditions prior to the recording of a plat(s) the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.

- a) Prior to any demolition, clearing, or grading, the Applicant must obtain legal Staff approval of a Certificate of Compliance Agreement for use of an M-NCPPC-approved offsite forest mitigation bank to satisfy the afforestation requirement.

4. Noise Attenuation

- a) Prior to issuance of the first building permit provide M-NCPPC staff with a certification from an engineer specialized in acoustics that the building shell for lots 2 through 13 has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn. The builder commits to construct the units in accord with these design specifications, with any changes that may affect acoustical performance approved by the acoustical engineer in advance of installation.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

- b) Noise levels must be no more than 65 dBA Ldn for areas of common outdoor activity.
- c) After construction is complete, and prior to use-and-occupancy permits for lots 2 through 13, the builder must provide M-NCPPC staff a certification from an engineer specialized in acoustics confirming that interior noise levels do not exceed 45 dBA Ldn.

5. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services-Water Resources Section ("MCDPS") in its letter dated June 7, 2013, and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS provided that the amendments do not conflict with the other conditions of the Site Plan approval.

6. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded in the Montgomery County Land Records at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 20th building permit that Applicant's recorded Homeowners Association Documents incorporate the Covenant by reference.

7. Recreation Facilities

- a) Provide one enclosed tot lot and one picnic/sitting area as shown on the proposed Site Plan. The Applicant must make best efforts to include play equipment for children over the age of six.
- b) The development must meet the square footage requirements for all of the applicable recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines, except for the minimum recommended setback for tot lots in the Recreation Guidelines as shown in the proposed Site Plan, except for setbacks of 25 feet from the surrounding residential lots.

8. Transportation

- a) All sidewalks along Findley Road, Valley View Avenue and within the development must be provided as shown in the proposed Site Plan and must meet ADA standards.
- b) The Applicant must provide signage on private streets to prohibit on-street parking within the Subject Property except in designated areas to make

sure Fire and Rescue access to all properties within the development is not impacted by residential and visitor parking.

- c) The Applicant must ensure that all necessary easements and dedications are provided to the sidewalks along University Boulevard and Findley Road.

9. Right-of-Way

The Planning Board accepts the recommendations of MCDPS Right-of-Way Permitting and Plan Review Section in its letter dated June 26, 2013, and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS provided that the amendments do not conflict with the other conditions of the Site Plan approval.

10. Moderately Priced Dwelling Units (MPDUs)

- a) The development must provide four MPDUs on-site in order to use the optional method of development, in accordance with the requirements of Chapter 25A.
- b) The MPDU agreement must be executed prior to the release of any building permits.
- c) All of the MPDUs shall be on-site and in the location shown on the Site Plan.

11. On-Site Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential/commercial development.
- b) Deflectors shall be installed on all fixtures causing potential glare or excess illumination.
- c) Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting public roads and residential properties.
- d) The height of the light poles shall not exceed 16 feet including the mounting base.
- e) All on-site down-light fixtures must be full cut-off fixtures.

12. Compatibility/Architecture

- a) The fronts of the townhouses along the Findley Road cul-de-sac must maintain a single-family house appearance with one entrance per elevation as shown on the elevation drawings.

13. Landscape Surety

The Applicant shall provide a performance bond/surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance with the following provisions:

- a) Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b) The amount of the bond/surety shall include plant material, on-site lighting, recreational facilities, and exterior site furniture within the relevant phase of development.
- c) Prior to issuance of the first building permit, the Applicant must enter into a Site Plan Surety & Maintenance Agreement with the Planning Board in a form approved by the Office of General Counsel that outlines the responsibilities of the Applicant and incorporates the cost estimate.
- d) The Bond/surety must be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety for each phase of development will be followed by inspection and reduction of the surety.

14. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved by Staff prior to the approval of the Certified Site Plan. The development program must include the following items in the phasing schedule:

- a) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices
- b) Private street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next planting season.
- c) On-site amenities including, but not limited to, sidewalks, landscaping, benches, recreational equipment, and trash receptacles must be installed prior to issuance of the 20th use and occupancy permit.
- d) Phasing for installation of on-site landscaping and lighting.
- e) Phasing of stormwater management, sediment and erosion control, and other features.

15. Certified Site Plan

The Certified Site Plan must include the following:

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

BE IT FURTHER RESOLVED, that all site development elements as shown on the Kensington Heights drawings stamped by the M-NCPPC on June 20, 2013 are required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS with the conditions of approval that:

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.*

The site plan conforms to all non-illustrative elements of local map amendment G-877 development plan as discussed in the section above.

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 proposed residential uses are allowed in the RT-8 Zone. The proposed Site Plan, with the staff's recommended conditions of approval, meets all the requirements of the zone as shown by the data analysis table in this report.

Requirements of the RT-8 Zone

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the RT-8 Zone.

Development Standards	Required	Provided
Minimum Tract Area: (59-C-1.731a)	20,000	131,364.52 (3.02 Ac.)
Maximum number of units (Local Map Amendment G-877)	27	26
Minimum Building Setbacks (for the Townhouse portion of the development) (59-C-1.732)		
From any single-family dwelling lot or land classified in a one-family, detached, residential zone.	30'	30'
From and public street	25'	25'
From an adjoining lot:		
(1)Side (end unit)	10'	10'
(2)Rear	20'	20'
Minimum Building Setbacks (for the one single- family detached unit) (R-60 Standards, (59-C-1.323))		
Minimum Setback from Street:	25'	25'

Minimum Side Yard Setback:	8 ft. one side, 18 ft. sum of both sides	8' one side, 18' sum of both sides
Minimum Rear Yard Setback:	20'	20'
Lot Area and Width (for the one single- family unit): (R-60 Standards) (59-C-1.322)		
Minimum Lot Area	6,000	6,143 sq. ft.
Minimum Lot Width at Street Line	25'	60.7'
Minimum Width at Front Building Line	60'	67'
Coverage and Green Area (for townhouses) (59-C-1.734)		
Maximum Building Coverage	40%	14.8% (19,500 sq. ft.)
Minimum Green Area	45%	55.08% (72,356 sq. ft.)
Parking (59-C-1.735)	52 spaces (2 spaces/DU)	68 spaces

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*
 - a. **Buildings and Structures**
 The proposed Site Plan locates the housing along Findley Road cul-de-sac, University Boulevard West and Valley View Avenue. This location is adequate and efficient and poses no safety concerns.
 - b. **Open Space**
 The main open public space is provided in the center of the Subject Property and includes a tot lot. The location of the space in the center of the Subject Property in front of two rows of townhouses provides for easy

access and visibility. The other open space area is the proposed seating area in the southeast corner of the site. There will be two entrances to it: one from Valley View Avenue and the other through the development via a walkway.

c. Landscaping

The Proposed Site Plan locates large shade trees around Findley Road cul-de-sac. Smaller ornamental trees will be located throughout the site and along Valley View Avenue and University Boulevard West.

d. Recreation Facilities

The proposed development is providing a sufficient amount of recreational facilities to serve all age ranges. Along with the on-site sidewalks and the natural area created by the 0.65-acre conservation easement, the project is meeting its recreation requirements by providing a seating area and a tot lot. The proposed seating area, located on the southeast section of the site, will consist of two benches and a pedestrian path.

The proposed tot lot is located in the center of the Subject Property and will include play equipment, benches, and trash receptacles. The tot lot meets the area and dimensional requirements of the Recreation Guidelines but does not meet all of the Guidelines' setback requirements. According to the Guidelines, the tot lot playground equipment must be setback at least 30 feet from any building or curb. The equipment is appropriately setback on every side of the tot lot except for the side closest to the private street off of the cul-de-sac. On this side, the equipment is setback 23 feet from the curb instead of the recommended 30 feet.

Although the proposed tot lot does not meet all of the setbacks specified in the Recreation Guidelines, the center of the site is the best location for a tot lot because it is the most visible and most accessible location for all users. The proposed tot lot is approximately 1,550 square feet and is significantly larger than the minimum size of 1,000 square feet recommended by the guidelines. Requiring the recommended setback from the curb will cause a reduction in the number of residential units, which is not desirable in this metro accessible location. The proposed tot lot is near an internal dead-end street with no thru traffic, and any potential noise from the tot lot will likely not be significant enough to cause any

disturbance to the adjacent residents. And the only setback not meeting the Recreation Guidelines recommendation is along an internal private road where the traffic volume will not be significant enough to cause significant safety concerns for children. The proposed Site Plan is receiving off- site credits for the site's close proximity (within one-half of a mile) to Kensington Heights Local Park. The Recreation Guidelines allow off-site credits for recreation facilities in a public park within one mile of a site.

e. Vehicular and Pedestrian Circulation

The proposed development will provide a sidewalk along the extension of Findley Road leading from the cul-de-sac to a new sidewalk to be constructed by the Applicant along Valley View Avenue (near the Wheaton Mall entrance off of University Boulevard West). In addition to the Valley View Avenue sidewalk, the Site Plan calls for another off-site sidewalk along the south side of Findley Road from Drumm Avenue east to the site's property line (and continuing into the site around the cul-de-sac). These sidewalks will improve pedestrian access in the area. Vehicular circulation on the site meets County standards.

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

The proposed Site Plan fulfills the intent of the RT-8 zone by providing a townhouse development that serves as an effective transition between residential and commercial developments. The proposed development uses site design techniques such as topography, setbacks and forested buffers to achieve compatibility with the surrounding area. The Site Plan calls for a single-family detached house (lot 1) adjacent to the existing single-family dwellings on Findley Road. The 0.65-acre forest conservation easement area along the southeastern property line, next to single-family houses along Faulkner Place, serves as a buffer between the proposed townhouses and the single-family houses along Faulkner Place. Additionally, the binding elements established in G-877 require that the proposed development maintain compatibility with surrounding single-family neighbors by designing the townhouses fronting on Findley Road cul-de-sac to have a single-family house appearance by having only one entrance on each side of the rows of three townhouses.

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 proposed Site Plan is in compliance with the Environmental Guidelines, Chapter 22A of the Montgomery County Forest Conservation Law. The Planning Board approved a Preliminary Forest Conservation Plan (#120100290) on May 25, 2011. The Final Forest Conservation Plan, as part of this Site plan approval, is consistent with the approved PFCP. Based on a review by the Department of Permitting Services staff, the stormwater management concept for the site is acceptable. As mentioned earlier, the stormwater management concept proposes to fulfill the required stormwater management goals through the use of microbioretention/planter boxes, landscape infiltration, and porous pavement. Additional treatment is provided via a volume based proprietary filter structure.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 3 2013 (which is the date that this resolution is mailed to all parties of record); and

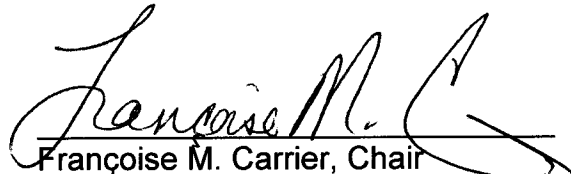
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 25, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board