



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

**Staff Report: Limited Site Plan Amendment No. 82002021A, Montrose Parks
in response to a violation**

ITEM #: _____

MCPB HEARING DATE: July 9, 2009

REPORT DATE: June 25, 2009

TO: Montgomery County Planning Board

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

FROM: Sandra Pereira, Senior Planner *SP*
Development Review Division
(301) 495-2186
sandra.pereira@mncppc-mc.org



APPLICATION DESCRIPTION: Amendment to secure as-built features and to include additional site plan elements; 1.29 acres; R-60/TDR; located on Montrose Park Place, approximately 200 feet west of the intersection of Montrose Road and East Jefferson Street; North Bethesda/ Garrett Park.

APPLICANT: Montrose Park, LLC

FILING DATE: January 7, 2008

RECOMMENDATION: Approval with conditions

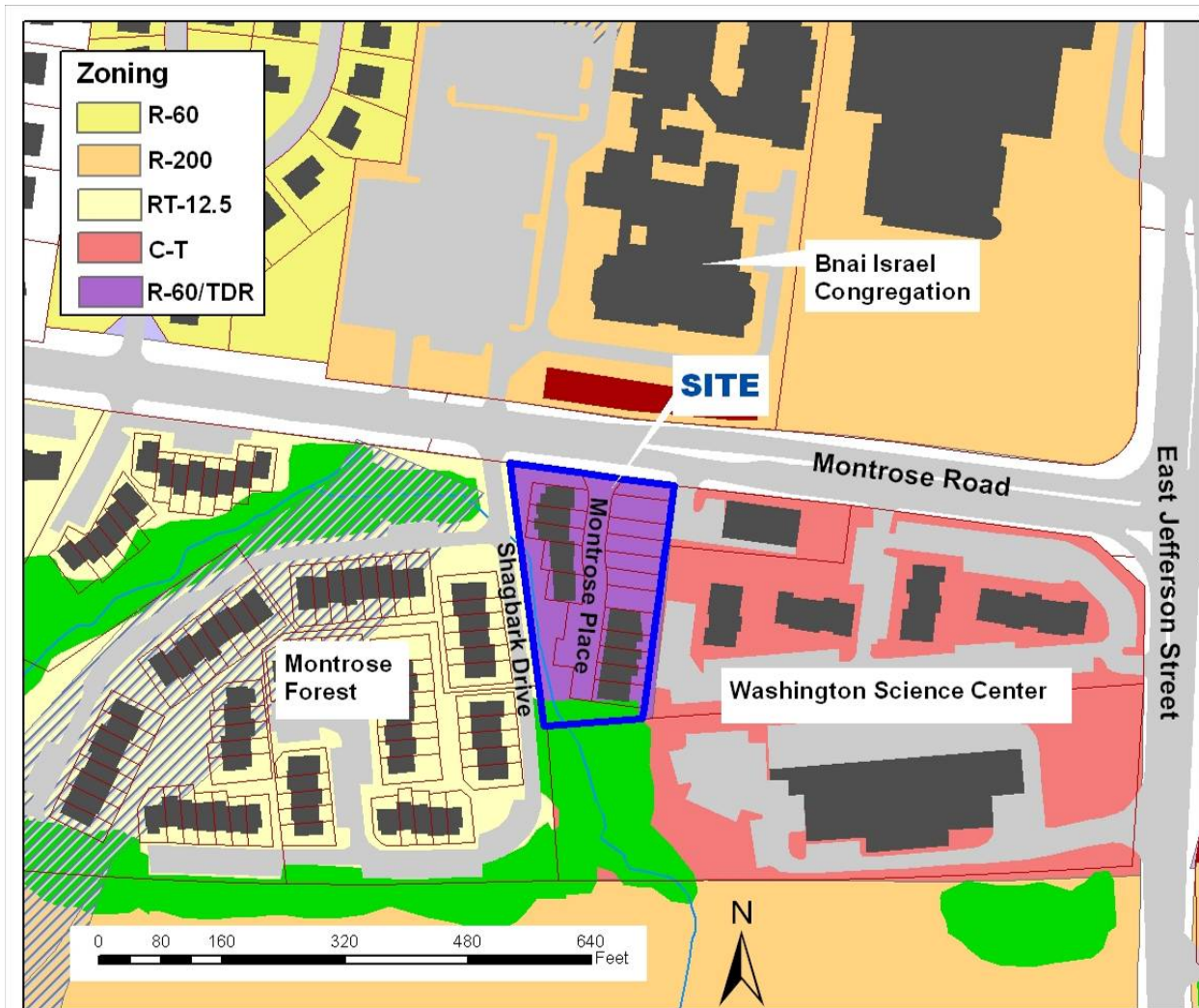
EXECUTIVE SUMMARY:

The Applicant has been in violation of certain onsite and offsite elements of the originally approved site plan, landscape and lighting plans, and subsequent amendments. The onsite non-conforming items were noted in a Notice of Violation (NOV) issued by M-NCPPC on January 4, 2006. The proposed Amendment brings the site plan into conformance with the as-built conditions, and also proposes additional site plan elements, such as, ground mounted entrance signs, equipment covers, and a different style of light fixtures.

SITE DESCRIPTION

Vicinity

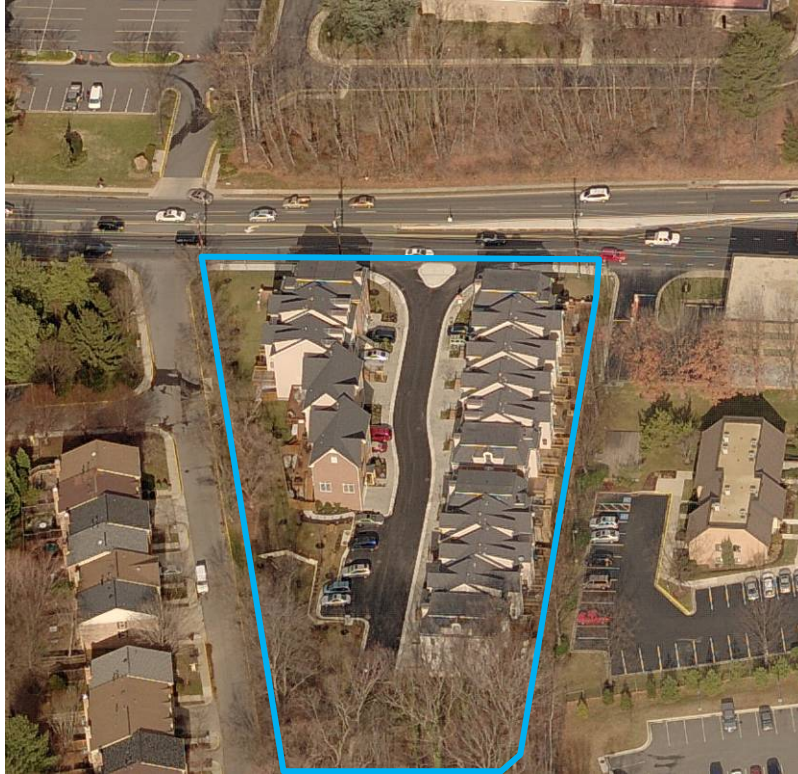
The subject property is located in the North Bethesda-Garrett Park Master Plan area. The site is in the R-60/TDR zone and is accessed from Montrose Road, which forms the northern boundary of the site. Across Montrose Road lies the B'nai Israel Congregation and the Charles Smith Jewish Day School, both zoned R-200. The Washington Science Center (C-T Zone) is located to the east and south of the property. East Jefferson Street, approximately 200 feet to the east, is the nearest north-south connector street. To the west and south is the Montrose Forest residential development (RT-12.5).



Site Vicinity

The property has been developed with 16 one-family attached (townhouses) dwelling units that are accessed via a private street – Montrose Place – with a single access point off Montrose Road. The 1.29-acre site is trapezoidal in shape, with approximately 215 feet of frontage along Montrose Road, a major arterial. Shagbark Drive, a local street, parallels the western boundary.

The property projects lengthwise, from Montrose Road, forming a linear parcel 340 feet deep that narrows to about 125 feet in width at the rear parcel line. The site falls gently at a 2 percent slope from the northeast corner to the west side of the property where the stream buffer is located.



Aerial view of the site with approximate boundary in blue

PROJECT DESCRIPTION

Previous Approvals

The Preliminary Plan No. 120010220 for Montrose Parks was approved with conditions by the Planning Board on July 26, 2001 (Planning Board Resolution dated August 28, 2001 [Appendix A]) for 16 lots on 1.29 acres.

The Site Plan No. 820020210 for Montrose Parks was approved with conditions by the Planning Board on February 7, 2002 (Planning Board Resolution dated March 11, 2002 [Appendix A]) for 16 one-family attached dwelling units on 1.29 acres.

Enforcement History

A Notice of Violation (NOV) was issued by MNCPPC on January 4, 2006 [Appendix B].

Two citations were issued by MNCPPC on March 16, 2009, in the amounts of \$85,500 and \$187,125 [Appendix C].

To settle the violation, the Applicant paid a civil fine and submitted the subject revised Limited Site Plan Amendment on June 11, 2009 for the Planning Board's approval.

Proposal

The Applicant filed an amendment (Site Plan No. 82002021A) on January 7, 2008, to bring the site plan into conformance with the as-built conditions, and also to propose minor additional changes to the approved site plan. The amendment proposes the following modifications:

- Modifications to ratify as-built conditions that deviate from the Certified Site Plan:
 - Reverse (mirror) units on recorded Lots 90 and 95 (previously designated in the site plan as Lots 6 and 11) to depict as-built conditions.
 - Revise lot numbers to reflect Record Plat designations.
 - Update color, style, and pattern of sidewalk pavers.
 - Install sidewalk pavers on crushed stone/sand base rather than set on concrete.
 - Install pavers on driveways rather than concrete.
 - Revise curb and gutter detail to show rolled/mountable curb.
 - Delete site furnishings from the plans.
 - Revise style of board-on-board fence.
 - Update landscape plan to reflect as-built conditions and to delete plants previously depicted on individual lots in private ownership.
 - Delete street light pole/fixture in front of Lot 86.

- Modifications at the request of Staff:
 - Depict Category I Forest Conservation Easement boundaries and locations of demarcation signage.
 - Provide additional native plantings (understory shrubs and trees) on the western property line to create an equivalent canopy coverage as approved by the original site plan.
 - Install concrete pavers on the triangular median island outside the public right-of-way at the intersection of Montrose Road and Montrose Place.
 - Stripe parking spaces and loading/turn-around area.
 - Add Offsite Stream Improvement Plan as approved by the Department of Permitting Services to the certified site plan set.

- Modifications to include additional site plan elements¹ not included in the Certified Site Plan:
 - Add ground mounted entrance signs;

¹ Per the June 2006 Dispute Resolution Agreement between the Applicant and the Montrose Park Homeowner's Association, which is a private agreement and not subject to the Planning Board enforcement, unless the items are included in the approval by the Planning Board and shown on the plans.

- Add equipment covers on Units at recorded Lots 89 and 100 (formerly Lots 1 and 16);
- Change style of street lights from one to three light fixtures per pole.

PROJECT ANALYSIS

The Applicant has been in violation of certain onsite and offsite elements of the approved site plan, landscape and lighting plans, dated April 11, 2003, and subsequent amendments. The onsite non-conforming items were noted in a Notice of Violation (NOV) issued by MNCPPC on January 4, 2006 (Appendix B), which provided a timeframe of May 15, 2006, for compliance. The offsite elements were not included in this NOV, and have still not been completed.

The non-compliant items were not addressed within the timeframe prescribed by the NOV, and a citation was not issued. It was understood that the Applicant was trying to address them and would be submitting an Amendment that had the support of the Montrose Park Homeowner's Association. The Department of Permitting Services (DPS), Enforcement Section was not involved since the enforcement procedures were initially conducted by MNCPPC Staff.

The Applicant filed an amendment (No. 82002021A) on January 7, 2008, to bring the site plan into conformance with the as-built conditions, and also to propose minor additional changes to the approved site plan. The proposed **modifications to ratify the as-built conditions** generally pertain to site design details, which are still an integral part of Staff's review, required on the certified site plan approval, and subject to enforcement action. The as-built conditions do not appear to adversely impact the safety and welfare of the community. The Montrose Parks Homeowners Association has accepted these modifications per the June 2006 Dispute Resolution Agreement between the Applicant and the HOA.

None of these modifications violate the zoning ordinance standards, or general intent of the plan. The overall site layout for this development was maintained along with the number of units, parking, and general circulation systems. The more severe modifications are the mirroring of the units on recorded Lots 90 and 95 (previously designated as Lots 6 and 11) because they are the most difficult to bring into compliance, with implications on the house entry, planting bed, and associated landscaping. The majority of the non-conforming items pertain to approved items that were installed, but failed to meet the approved specifications, such as the site furnishings and pavers, or site design details, such as the board-on-board fence, and curb and gutter. The site furnishings can be eliminated from the plans since this development is not required to meet the MNCPPC Recreation Guidelines and they were removed by the homeowners.

Another set of modifications are intended to ensure that the original conditions approved by the Planning Board are properly reflected on the site plan. For instance, the Category I Forest Conservation Easement boundaries and locations of demarcation signage will now be depicted on the site plan, and the Offsite Stream Improvement Plan as approved by the Department of Permitting Services will be included as part of the certified site plan set. The Applicant has agreed to provide additional native plantings along the stream on the western property line to

mitigate trees that have died and to create equivalent canopy coverage as approved by the original site plan.

The **additional site plan elements** proposed generally pertain to improvements and upgrades to the overall concept. The addition of entrance signs will highlight the gateway to this community and contribute to its identity. The proposed equipment covers on Units at recorded Lots 89 and 100 (formerly Lots 1 and 16) will help to screen the utility meters, which are partly visible from Montrose Road, while still accommodating for utility access. The proposed style of the light fixtures has three glass lamps (as opposed to one) to be installed on the existing light poles. The proposed illumination levels are adequate.

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. Notice of the subject amendment was sent to all parties of record on February 11, 2008. Staff has been contacted on numerous occasions by the current Homeowner's Association representative to check on the status of the Amendment and to understand the next steps. The homeowners have been involved in the process from the beginning, noting several non-conforming items at first, and then providing support of an Amendment to the Site Plan.

RECOMMENDATION AND CONDITIONS

The proposed modifications to the site plan do not alter the overall design character of the development in relation to the original approval; and the site remains compatible with existing and proposed development adjacent to the site. These modifications do not impact the efficiency, adequacy, or safety of the site with respect to vehicular and pedestrian circulation, open space, landscaping, or lighting.

Staff recommends approval of site plan 82002021A, Montrose Parks, for the amendments delineated above. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on June 11, 2009 are required except as modified by the following conditions.

Conformance with Previous Approvals

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan No. 120010220 as listed in the Planning Board Resolution dated August 28, 2001 unless amended. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT conditions, and DPS stormwater conditions.

2. Site Plan Conformance

The proposed development must comply with the conditions of approval for Site Plan No. 820020210 as listed in the Planning Board Resolution dated March 11, 2002, or as amended by this Amendment.

Environment

3. Forest Conservation

The proposed development must comply with the conditions of the approved preliminary forest conservation plan. The Applicant must satisfy all conditions by certified site plan.

- a. Record a Category I Forest Conservation Easement over the stream buffer area shown on the site plan.
- b. Show locations of demarcation signage on the certified site plan.
- c. Show the area of encroachment in the Conservation Easement for purposes of correcting the weir.
- d. Remove dead trees within the onsite stream restoration area, with stumps left intact.
- e. Plant a minimum of 6 native replacement trees to fill voids in the canopy. Two of these trees must be *Taxodium distichum* (Bald cypress).
- f. Plant a minimum of 27 native understory plantings in the onsite stream restoration area.
- g. Obtain approval from the Montrose Parks HOA to record the Easement.

4. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated April 30, 2001, unless amended and approved by the Montgomery County Department of Permitting Services.

Site Plan

5. Site Design

- a. Stripe the parking spaces and loading/turn-around area.
- b. Install concrete pavers on the triangular median island at the intersection of Montrose Road and Montrose Place.
- c. Install wing walls on Lots 89 and 100 (formerly Lots 1 and 16) as depicted on the "entrance detail."

6. Development Program

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

- a. Construction of all modifications approved by this Amendment must be started within 30 calendar days of the date that this Resolution is mailed to all parties of record.
- b. A development program must be provided on the certified site plan indicating a completion date.

7. 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. Ensure consistency off all details and layout between site plan and landscape plan.
- d. Revise plant list to reflect correct quantities of plantings on the landscape plan.

APPENDICES

- A. Prior Resolutions
- B. Notice of Violation dated January 4, 2006 & photos
- C. Citations issued on March 16, 2009

Appendix A



Action: Approved Staff Recommendation
Motion of Comm. Bryant, seconded by
Comm. Perdue with a vote of 4-0;
Comms. Bryant, Holmes, Perdue and
Wellington voting in favor

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-01022
NAME OF PLAN: MONTROSE PARK

On 10/20/00, STANDARD CONSTRUCTION submitted an application for the approval of a preliminary plan of subdivision of property in the R-60/TDR zone. The application proposed to create 16 lots on 1.29 acres of land. The application was designated Preliminary Plan 1-01022. On 07/26/01, Preliminary Plan 1-01022 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-01022 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-01022.

Approval, subject to the following conditions:

- (1) Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit, as appropriate
- (2) Approval of detailed on and offsite stream buffer mitigation plan at site plan review as compensation for stream buffer reduction. Detailed mitigation plan shall include the following elements at the minimum, consistent with the current concept: 1) onsite stream restoration, relocation, and buffer planting; 2) offsite planting around B'Nai Isreal Regional SWM Facility (as acceptable to DEP), and long term protection; and 3) other riparian and/or forest improvements, restoration, or enhancements, in the same watershed, if feasible. The mitigation plan shall be in addition to all current SWM and forest conservation requirements, and shall be at least 2 for 1 mitigation for the area of stream buffer displaced onsite.
- (3) Coordinate with the Montgomery County Department of Public Works and Transportation (MCDPW&T) regarding the site access to Montrose Road with their Capital Improvement Program (CIP) Project No. 507017 for the improvements at the intersection of Montrose Road and East Jefferson Street. The site access may be limited to a right-in and right-out because of a possible reconstruction of the median on Montrose Road extending back from the intersection with East Jefferson
- (4) Final access and improvements, as required to be reviewed and approved by MCDPW&*T prior to recording of plats

- (5) All road rights of way shown on the preliminary shall be dedicated by the applicant, to the full width mandated by the North Bethesda Sector Plan, unless otherwise designated on the preliminary plan
- (6) Conditions of MCDPS stormwater management approval
- (7) Final location and number of dwelling units to be determined at site plan
- (8) Provide a minimum of ten (10) TDR's, dependent on Conditions No.7, with verification of easement agreements to be referenced on record plat(s)
- (9) No clearing, grading or recording of plat(s) prior to site plan review
- (10) Record plat(s) to reference all common Home Owners Association (HOA) control and areas of conservation easement
- (11) Other necessary easements



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MONTGOMERY COUNTY PLANNING BOARD

REVISED OPINION

DATE MAILED: March 11, 2002

SITE PLAN REVIEW: #8-02021

PROJECT: Montrose Park

Action: Approval subject to conditions. Motion was made by Commissioner Bryant, seconded by Commissioner Perdue, with a vote of 4-1; Commissioners Holmes, Bryant, Robinson and Perdue voted for. Wellington voting against.

The date of this revised written opinion is March 11, 2002. Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before April 10, 2002. If no administrative appeal is timely filed, this site plan shall remain valid for as long as Preliminary Plan #1-01022 is valid, as provided in Section 59-D-3.8. Once the property is recorded, this site plan shall remain valid until the expiration of the project's APFO approval, as provided in Section 59-D-3.8.

On February 7, 2001, Site Plan Review #8-02021, was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report which is made a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required;
2. The Site Plan meets all of the requirements of the zone in which it is located;

3. The locations of the buildings and structures, the open spaces, the landscaping, the recreation facilities, and the pedestrian and vehicular circulation systems 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;
5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

The Montgomery County Planning Board APPROVES Site Plan Review #8-02021 which consists of 16 single family homes in the R-60 TDR Zone.

1. Conditions of MCDPS stormwater management concept approval dated April 30, 2001.
2. Conditions of Transportation Planning Division memo dated July 26, 2001.
3. Conditions of Environmental Planning Division communication dated February 1, 2002, including:
 - a. Applicant to implement architectural and physical barriers designed to protect decks and ground level areas from Montrose Road noise. Details shall be provided at signature set.
 - b. Applicant shall provide compensation for reduced stream buffer on site through construction of on- and off-site improvements in accordance with a final detailed stream restoration plan at signature set, to include the following:
 - i. Onsite Improvements to include stream restoration, with tree save and native tree replanting per approved plan. Restored and replanted area to be placed in Category I Easement that recognizes MC DPS storm water easement in some areas.
 - ii. Offsite riparian improvements/stream stabilization substantially in accord with signed concept agreement letter dated December 21, 2001. The offsite concept includes improvements to riparian habitat just below the subject property including stream armoring, removal of invasive species, and planting of new trees and shrubs that enhance existing native vegetation/trees.
[Note: Item 4.b.ii involves a private agreement not subject to direct planning board enforcement. If the Montrose Forest HOA rescinds their concept approval despite continued due diligence by the applicant, applicant shall provide a replacement compensation concept for staff review and approval.]
 - iii. Enforcement of these conditions shall be via the SPEA in conjunction with a bond to cover proper installation and maintenance of referenced improvements for a period of two years.

4. Prior to signature set approval the following revisions shall be made and/or information provided:

a. Site Plan

- i. Site Plan Signature Set shall show all easement lines, LODs, PUEs, ROWs, setbacks, slopes of sidewalks, and all grading;
- ii. Provide a fence of masonry material along the east side property line running north-south; no fences shall be constructed on lot sides between units to permit maintenance and utility access;
- iii. Provide documentation from appropriate agencies on utility feed access requirements to all lots on the site; allow for rear utility access to units by providing 8-foot clear path across all lot rears with no obstructions or fences; show utility lines and feeds on site plan;
- iv. Revise street line to reduce the curve shift and provide for additional streetscaping;
- v. Provide additional visitor parking to achieve a total of 6 visitor surface spaces;
- vi. Site Plan Signature Set shall include wall heights and details and materials of decks, yard fences, railings, decks, return walls, and garage doors.

b. Landscape Plan

- i. Provide street trees along internal street; trees shall be a standard species such as Zelkova, London Plane, etc; provide trees at spacing of 44 feet (every other unit), and extending the entire length of the drive;
- ii. Replace the two Yoshino Cherry trees on each side of the entrance drive with street tree species;
- iii. Provide landscaping, such as ornamental trees and hedges at the perimeter of the surface parking area;
- iv. Show location of picnic table and benches.

5. Standard Conditions of Approval dated October 10, 1995:

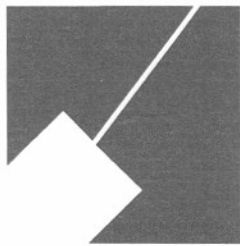
A. Submit a Site Plan Enforcement Agreement, Development Program, and Homeowners Association Documents for review and approval prior to approval of the signature set as follows:

a. Development Program to include a phasing schedule as follows:

- i. Street tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- ii. Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
- iii. Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.

- iv. Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - v. Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
 - vi. Coordination of each section of the development and roads;
 - vii. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
- B. Signature set of site, landscape/lighting, forest conservation and sediment and erosion control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
- a. Environmental buffers at least 150 feet wide;
 - b. Limits of disturbance;
 - c. Methods and location of tree protection;
 - d. Forest Conservation areas;
 - e. Conditions of DPS Stormwater Management Concept approval letter;
 - f. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
 - g. Conservation easement boundary;
- C. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.
- D. No clearing or grading prior to M-NCPPC approval of signature set of plans.

Appendix B

**NOTICE OF VIOLATION**

January 4, 2006

Mr. Fred Margolis
Standard Construction
P.O. Box 59155
Potomac, MD 20859-9155

Re: Inspection results
Montrose Parks
Site Plan #: 8-2002021A

Dear Mr. Margolis:

On December 28, 2005 an inspection was performed at the Montrose Parks site. The subdivision is governed by the approved site plan (and subsequent minor amendment) 8-2002021A. Your signature appears on the site plan and associated site plan enforcement agreement, which has legally bound you to execute all the features and requirements of the site plan. Pursuant to the site inspection the following elements of the approved site plan were missing or require correction:

1. Planting bed (and associated street tree) fronting lot 6 has not been installed.
2. Vine plantings at rear of lots 6-16 have not been installed. (Homeowners may elect to waive installation of vines per plan note). Either install required plant material or provide written waiver from homeowner(s).
3. A number of street trees along Montrose Place are either missing or have been substituted with unapproved species.
4. A cherry tree is missing on the north side of lot 1.
5. A red maple was not planted at the southeast corner of lot 6.
6. The hedges near the seating area have only been partially installed, and some of the plant species required in the plan have been substituted with unapproved species for that location.
7. The site furnishings do not appear to match plan specifications. Either provide certification that furnishings installed match plan specifications, or remove and replace furnishing with approved features. (Note: when hedge is installed, bench should be installed to face inward, toward seating area).
8. Light fixtures do not match plan specifications (lamp-posts installed are acceptable).
9. Pavers do not match color, style or pattern of plan approval. Furthermore, plan requires pavers to be set on concrete; pavers were installed on crushed stone/sand base. Pavers as installed cover each of driveways, where plans called for concrete surface.
10. Wood fence installation on site does not match wood fence detail approved on plans.
11. Wingwalls were installed, but not per entrance feature detail.

As a result of the above-mentioned items, this site is not in compliance with the Planning Board approved site plan, landscape and lighting plans, dated April 11, 2003 (for minor amendment) and Site Plan Enforcement Agreement. All deficient planting items must be corrected within the Spring 2006 planting window of March 15, 2006 to May 15, 2006. The remaining items must be corrected by March 31, 2006. Additional planting discrepancies exist which were not specified in the above punch list. Please call to schedule an on site meeting to discuss. Failure to comply with these measures by the dates specified will result in the issuance of civil citations for non-compliance with the approved site plan.

If you should have any questions concerning this inspection or any corrective requirements please contact me at 301-495-4521.

Sincerely,



Marco Fuster
Plan Enforcement
Development Review Division

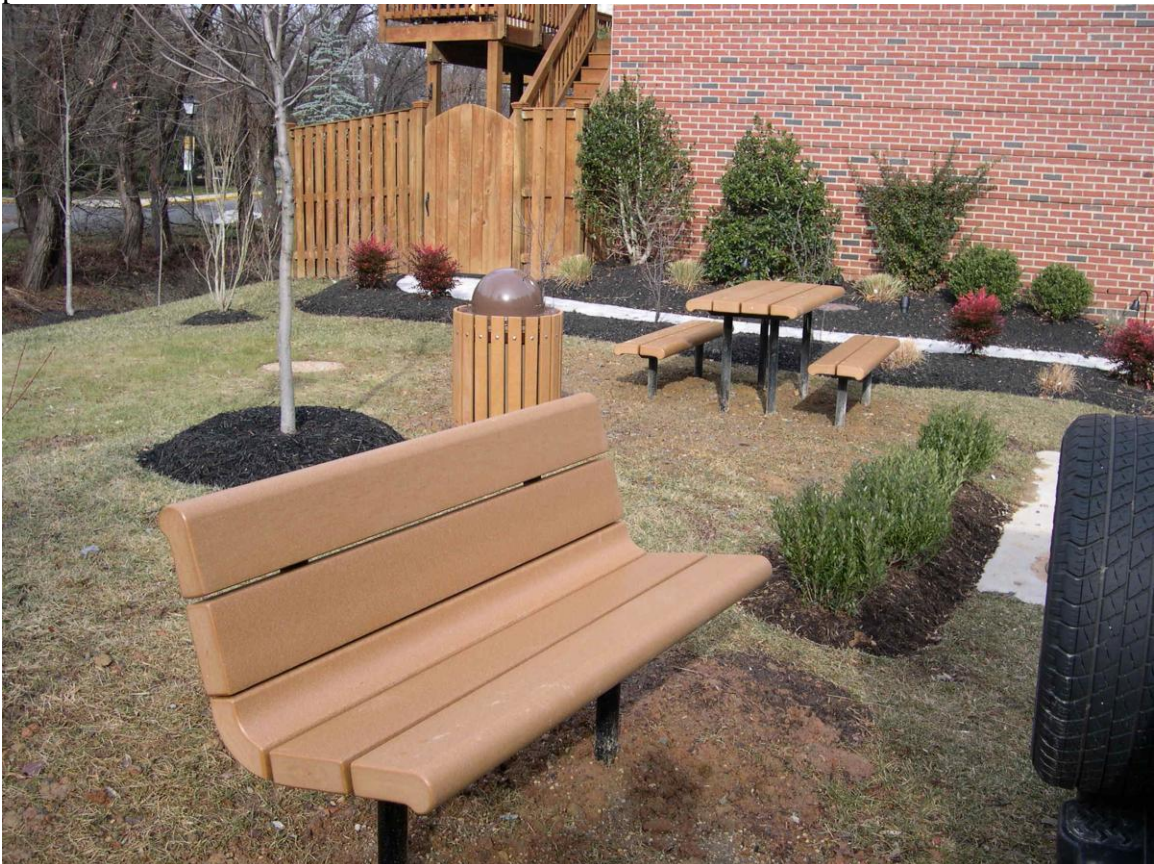
cc

Rose, Krasnow, Chief, Development Review Division M-NCPPC
Garry Jenkins, Resident

12/28/05 inspection at **Montrose Parks, Site Plan 8-02021**



Lot 6 entrance, planting bed and garage were reversed from plan depiction, specified tree not present.



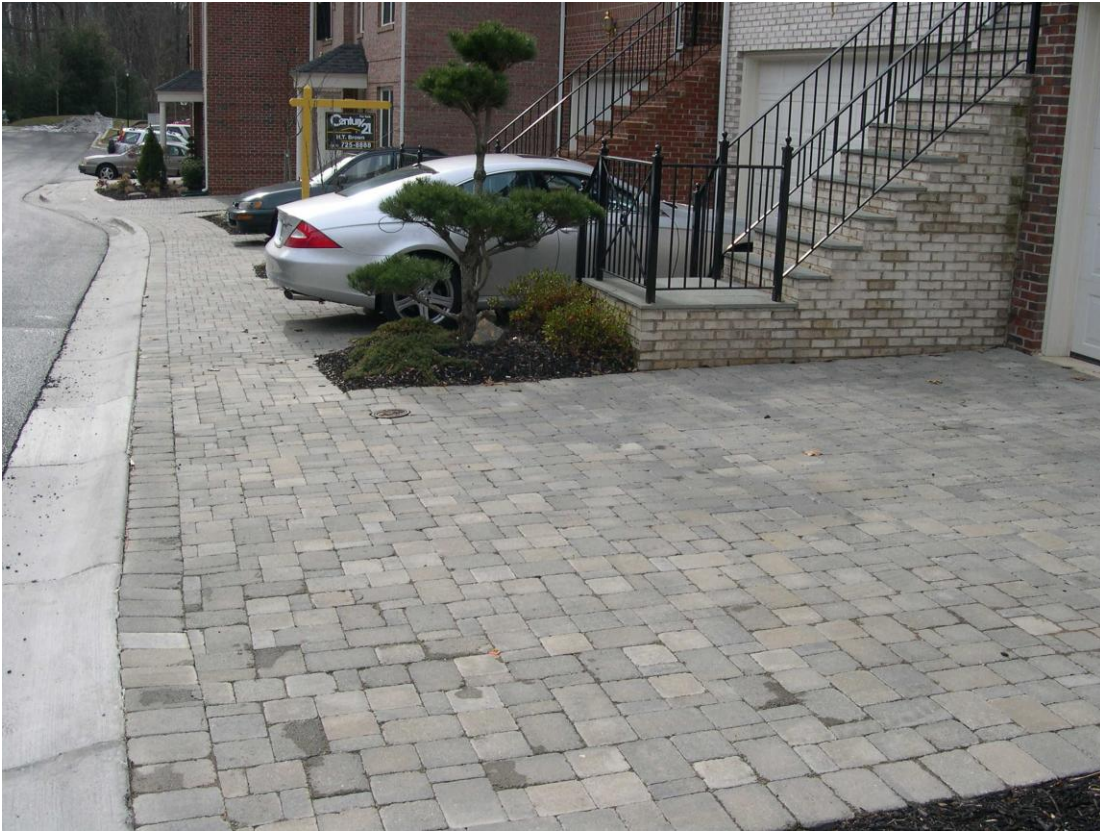
Hedge incomplete, bench should face inside, amenities not per specified manufacturer.



Incomplete hedge, species present do not match plan.



Masonry walls installed per plan, except wing wall (end sections) not installed per entrance feature detail.



Driveways were upgraded with pavers (plans called for concrete surface). However pavers installed to not match plan color, shape or pattern. Furthermore, plan requires installation on concrete; pavers installed on crushed stone/sand base. Many of street trees are either absent or substituted with unapproved species.



Wood fence installed does not match fence detail on plan.



Soil recently dumped in floodplain.



Light fixtures do not match plan specifications.

Appendix C

Civil Citation
The Maryland-National Capital Park and Planning Commission
vs.

Name: FRED MARGOLIS
Company/Position: STANDARD CONSTRUCTION COMPANY, LLC / MANAGING MEMBER
Address: 10844 SPRING KNOLL DR, POTOMAC, MD 20854
Phone Number: 301-674-3226 Fax Number: Email: fmstdconst@aol.com

Location and Description of Violation:
Address/location of site: MONTROSE PARKS - LOCATED AT MONTROSE ROAD & MONTROSE PARK PLACE

Pursuant to the M-NCPPC's authority under Article 28 of the Annotated Code of Maryland and Chapter 50 of the Montgomery County Code, it is formally charged that the above named defendant on 1/4/2006 (date) at the stated site location did commit the following:
FAILED TO INSTALL SEVERAL SITE PLAN ELEMENTS PER THE APPROVED CERTIFIED SITE PLAN, (ATTACHED), AND DOCUMENTED BY A 1-4-2006 NOTICE OF VIOLATION ISSUED BY MNCPPC ENFORCEMENT STAFF.

In violation of:
Montgomery County Code, Chapter 22A
Montgomery County Code, Chapter 59
Approval of SITE PLAN Plan No. 820020210

Civil Fine and Compliance:
1. (a) You shall pay a fine of \$ 85,500.00 by 4/30/2009 (date) and complete the remedial action listed below, if any, to avoid trial.
(b) You shall pay a daily fine of \$ 25 if the original fine has not been paid and/or the remedial action has not been completed by 4/30/2009 (date). The daily fine shall accrue until the original fine is paid and all remedial action is completed.
2. You shall pay a daily fine of \$ until the remedial action listed below is completed. This fine shall be paid within 15 days of completion of all remedial action.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the Information Counter of M-NCPPC's Montgomery Regional Office located at 8787 Georgia Avenue, 2nd Floor, Silver Spring, Maryland 20910, 301-495-4610. Failure to comply with this citation may result in formal court action or issuance of additional citations including additional fines. You may also elect to stand trial. If you elect to stand trial, you must notify the M-NCPPC Office of the General Counsel, in writing, at 8787 Georgia Avenue, Suite 205, Silver Spring, Maryland 20910, within 15 days of date of citation. The District Court will thereafter notify you of the trial date.
ATTN: TAIMI ANDERSON @ PUBLIC INFO COUNTER X 4625

Remedial Action:
1. Install SITE PLAN ELEMENTS PER THE ORIGINAL APPROVED PLAN OR LATER AMENDMENTS
2. IF REMEDIAL ACTION IS NOT COMPLETED BY 5-31-2009, YOU SHALL PAY A DAILY FINE OF \$ 25 PER DAY UNTIL THE WORK IS COMPLETED.

by: 5/31/2009 (date)
2. You have violated Chapter 22A of the Montgomery County Code, and maybe subject to an Administrative Civil Penalty, which may include an additional monetary fine in addition to corrective measures. You must contact Environmental Planning Department of M-NCPPC at 8787 Georgia Avenue, 1st Floor, Silver Spring, Maryland 20910, 301-495-4540, within 15 days of issuance of this citation.

Acknowledgement:
I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation. I have a right to stand trial for the offense(s) charged. If I do not exercise my right to stand trial, I agree to entry by the court of judgment on affidavit for the amount of the fine.
Defendant's Signature Date: 3/16/09

Affirmation:
I solemnly affirm under the penalties of perjury, and upon personal knowledge or based on the affidavit, that the contents of this citation are true to the best of my knowledge, information and belief and that I am competent to testify on these matters. The defendant is not now in the military service, as defined in the Soldier's and Sailor's Civil Relief Act of 1940 with amendments, nor has been in such service within thirty days hereof.
Inspector's Signature Print name: ASH KAYE Phone number: 301-495-4658 Date: 3/16/2009

Civil Citation
The Maryland-National Capital Park and Planning Commission

vs.

Name: FRED MARGOLIS
 First Middle Last
 Company/Position: STANDARD CONSTRUCTION COMPANY, LLC / MANAGING MEMBER
 Address: 10841 SPRING KNOLL DR. POTOMAC, MD 20854
 Phone Number: 301-674-3226 Fax Number: _____ Email: fmstdconst@aol.com

Location and Description of Violation:

Address/location of site: MONTRUSE PARKS, LOCATED AT MONTRUSE ROAD AND
MONTRUSE PARK PLACE

Pursuant to the M-NCPPC's authority under Article 28 of the Annotated Code of Maryland and Chapter 50 of the Montgomery County Code, it is formally charged that the above named defendant on 4/25/2003 (date) at the stated site location did commit the following:

FAILED TO COMPLETE THE OFFSITE STREAM RESTORATION WORK AND
ASSOCIATED AFFORESTATION, BY THE TWELTH BUILDING PERMIT (4/25/03)
AS SPECIFIED IN THE SITE PLAN ENFORCEMENT AGREEMENT.

In violation of:

Montgomery County Code, Chapter 22A Montgomery County Code, Chapter 59
 Approval of SITE PLAN Plan No. 820020210 Other: _____

Civil Fine and Compliance:

1. (a) You shall pay a fine of \$ 187,125.00 by 4/30/2009 (date) and complete the remedial action listed below. ~~_____~~
 (b) You shall pay a daily fine of \$ 25 if the original fine has not been paid and/or the remedial action has not been completed by 4/30/2009 (date). The daily fine shall accrue until the original fine is paid and all remedial action is completed.
 2. You shall pay a daily fine of \$ _____ until the remedial action listed below is completed. This fine shall be paid within 15 days of completion of all remedial action.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the Information Counter of M-NCPPC's Montgomery Regional Office located at 8787 Georgia Avenue, 2nd Floor, Silver Spring, Maryland 20910, 301-495-4610. Failure to comply with this citation may result in formal court action or issuance of additional citations including additional fines. You may also elect to stand trial. If you elect to stand trial, you must notify the M-NCPPC Office of the General Counsel, in writing, at 8787 Georgia Avenue, Suite 205, Silver Spring, Maryland 20910, within 15 days of date of citation. The District Court will thereafter notify you of the trial date.

ATTN: TAMI ANDERSON @ PUBLIC INFO COUNTER X4625

Remedial Action:

1. ① COMPLETE THE OFFSITE STREAM RESTORATION WORK PER THE APPROVED PLAN
② COMPLETE THE AFFORESTATION REQUIREMENTS FOR BOTH THE ONSITE
AND OFFSITE STREAM RESTORATION IMPROVEMENTS.
③ IF REMEDIAL ACTION IS NOT COMPLETED BY 9-31-09, YOU SHALL PAY A DAILY FINE OF
 by: 9-31-2009 (date) \$ 25 PER DAY UNTIL THE WORK IS COMPLETED.
2. You have violated Chapter 22A of the Montgomery County Code, and maybe subject to an Administrative Civil Penalty, which may include an additional monetary fine in addition to corrective measures. You must contact Environmental Planning Department of M-NCPPC at 8787 Georgia Avenue, 1st Floor, Silver Spring, Maryland 20910, 301-495-4540, within 15 days of issuance of this citation.

Acknowledgement:

I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation. I have a right to stand trial for the offense(s) charged. If I do not exercise my right to stand trial, I agree to entry by the court of judgment on affidavit for the amount of the fine.

Defendant's Signature: _____ Date: 3/16/09

Affirmation:

I solemnly affirm under the penalties of perjury, and upon personal knowledge or based on the affidavit, that the contents of this citation are true to the best of my knowledge, information and belief and that I am competent to testify on these matters. The defendant is not now in the military service, as defined in the Soldier's and Sailor's Civil Relief Act of 1940 with amendments, nor has been in such service within thirty days hereof.

Inspector's Signature: _____ Date: 3/16/2009
 Print name: JOSEPH KAYE Phone number: 301-495-4658

District Court to send notices to M-NCPPC, Office of the General Counsel, 8787 Georgia Avenue, Suite 205, Silver Spring, Maryland 20910.

white=District Court; green=Office of General Counsel; yellow=Defendant