

M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

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**MCPB  
ITEM #  
12/1/05**

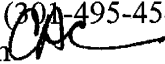


**MEMORANDUM**

**DATE:** November 16, 2005

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief   
Development Review Division

**FROM:** Catherine Conlon, Supervisor (301-495-4542)   
Development Review Division

**REVIEW TYPE:** Pre-preliminary Plan of Subdivision

**APPLYING FOR:** Planning Board advice regarding a future preliminary plan submission for residential development

**PROJECT NAME:** Hallman Grove

**CASE NO.** 720060040 (formerly 7-06004)

**REVIEW BASIS:** Pursuant to Chapter 50, the Subdivision Regulations and Chapter 59, the Zoning Ordinance

**ZONE:** R-200 and R-200/TDR-3

**LOCATION:** On Fellowship Lane approximately 1,600 feet west of Quince Orchard Road

**MASTER PLAN:** Potomac

**APPLICANT:** Hallman Grove LLC

**ENGINEER:** Site Solutions, Inc.

**ATTORNEY:** Linowes and Blocher

**FILING DATE:** July 21, 2005

**HEARING DATE:** December 1, 2005

**Staff Recommendation:** No objection to the submittal of a preliminary plan which addresses the issues discussed below.

## **SITE DESCRIPTION**

The subject property consists of 12.65 acres of land located west of the cul-de-sac terminus of existing Fellowship Lane. Fellowship Lane begins at Quince Orchard Road approximately 1,700 feet south of the intersection of Quince Orchard Road and Darnestown Road (MD 28) in Potomac (Attachment A). The property is an assemblage of ten parcels which are recorded by deed and under multiple ownership. The property is split-zoned R-200 and R-200/TDR3 and lies within the Muddy Branch watershed which is designated as Use Class I. Surrounding land use consists of one-family residential dwellings in the R-200/TDR3 zone on the south, east and northeast property boundaries; one-family residential dwellings in the R-200 zone on the northwest property boundary; and a major Pepco power line right-of-way along the western property boundary.

The site currently contains two occupied one-family residences (on existing Parcels 801 and 821) accessed by paved driveways originating at the Fellowship Lane cul-de-sac. A third existing residence, on a deeded parcel which is not part of the proposed subdivision (Parcel 741), also has driveway access from existing Fellowship Lane through the subject site. Another unoccupied, deeded parcel which is not part of the proposed subdivision, Parcel 927, has unimproved access through the subject site via an existing ingress/egress easement.

The site gently slopes to the east and southwest from a high point located in the rear of the two existing homes. A perennial stream crosses existing Fellowship Lane on the eastern property boundary and a second intermittent stream flows into this tributary from the eastern portion of the site. Environmental buffers associated with these streams encompass a significant part of the eastern portion of the site. Total forest cover on the site consists of approximately 6.8 acres in four stands, the largest (in the southwestern portion of the site) being approximately 4.5 acres. Overall forest stand quality is fair to poor, but many large, high quality individual trees are present within existing forest stands and scattered throughout the property.

## **PROJECT DESCRIPTION**

The subject pre-preliminary plan is being presented to the Planning Board at the request of the applicant in order to obtain advice regarding the proposal for future residential development on the property. The proposal consists of a 30-lot subdivision containing 16 one-family detached dwellings and 14 townhouses (Attachment B). The one-family detached lots are accessed via extension of existing Fellowship Lane as a public road, built to reduced-width, tertiary street standards; and the townhouses by private drive from the Fellowship Lane extension. The proposal applies the standards for R-200 development including moderately priced dwelling units (MPDUs) to the entire property, rather than using the TDR option available on the environmentally-constrained eastern portion of the site.

## **RELATIONSHIP TO POTOMAC SUBREGION MASTER PLANS (Past and Present)**

The 1980 Potomac Subregion Master Plan recommended part of the area covered by the subject pre-preliminary plan as suitable for PD-3 development. An Amendment to that Plan, adopted in 1982, allowed this area to achieve the same density, but only by utilizing TDRs. The objective of the Plan and the Amendment was to provide, for the Darnestown Planning Area, a suitable transition between the Rural Cluster Zone to the west (without sewer) and the more suburban areas to the east (with sewer). The Amendment did acknowledge (page 11) that TDRs were an option, and that not all property owners would wish to utilize TDRs in their development programs. The Amendment further stated that the Planning Board could reduce the number of units permitted on a given site due to environmental and other constraints and that much of the remaining area in conventional zones would not develop to full capacity.

The 2002 Approved and Adopted Potomac Subregion Master Plan supported the retention and reconfirmation of the existing zoning for the subject property and supported the use of TDRs wherever increases in density were proposed (page 40). The Master Plan did not specifically identify the property subject to the current pre-application.

### **DISCUSSION OF ISSUES**

The applicant has submitted the subject pre-preliminary plan to obtain advice from staff and the Planning Board regarding several issues related to the proposed development. Each of these issues are discussed below.

- **Combining the two zoning categories**

#### Applicant's Position

Given the significant environmental constraints associated with the R-200/TDR-3 zoned portion of the property, TDR density cannot be achieved. Therefore, the applicant proposes to develop the entire property using the development standards of Chapter 59, Section 59-C-1.62, for R-200 development using MPDUs. The standards permit a maximum of 2.44 dwelling units per acre which translates to a maximum of 30 dwelling units, including a minimum of 4 MPDUs, on the subject property. Maximum density is proposed with a combination of one-family detached and townhouse lots.

#### Citizen Position

By letters dated August 16 and November 11, 2005 (Attachments C and D), adjacent property owners oppose development to the maximum density on the property. They cite to provisions in the County Code which govern how density is calculated. Both letters express concern that environmentally-constrained acreage in the eastern portion of the site, and area needed for stormwater management and road access, are included in the developer's density calculations. The November 11, 2005 letter from Mr. Craig Moskowitz cites to the Section 59-C-1.628(e) provision which requires that the total number of dwelling units in a development combining two

different zones not exceed the total that would be permitted if the component areas of the combined tract were developed separately. The August 16 letter also expresses concern that the proposed development does not fully meet cluster development standards.

### Staff's Position

Staff believes the proposed development meets the Section 59-C-1.628(e)(3) requirements for development in different zones and does not exceed the total number of units that would be permitted if the component areas of the combined tracts were developed separately. Per Section 59-C-1.628(a), usable area on which density is calculated is determined by deducting 100-year floodplain that encompasses an excessive part of the tract and highway rights-of-way greater than 100 feet wide from the gross tract area. The R-200/TDR-3 zoned portion of the subject tract does not include either of these areas and, therefore, can be used in its entirety for density calculations. Staff also believes that density achieved from either of the separately zoned portions of the site can appropriately be developed anywhere within the gross tract area since, per Sections 59-C-1.331 and 1.332, the same development standards apply in both zones<sup>1</sup>.

Staff agrees with the applicant's density calculations and believes that up to 30 units may be developed on the subject property, however, staff cannot make a determination as part of this pre-preliminary plan submission that maximum density can be achieved. Further justification of the environmental benefit and compatibility of the requested unit mix are needed as part of preliminary and site plan review. Although cluster development signs were initially placed on the subject property by the applicant's consultant, the proposed plan utilizes R-200/MPDU development standards, not cluster. Therefore, staff believes the minimum green area requirement of the R-200 zone using the MPDU option applies (2,000 square feet for each development unit), not the open space requirements of cluster as suggested by adjacent neighbors.

- **Access and transition of Fellowship Lane to a tertiary street**

### Applicant's Position

The applicant has not provided written justification for the extension of Fellowship Lane as a reduced-width tertiary.

### Citizen's Position

In letters dated August 15, 2005 (Attachment E), adjacent neighbors raised concerns that large trees will need to be removed to extend Fellowship Lane.

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<sup>1</sup> Section 59-C-1331(a) stipulates that standard method development in TDR zones must comply with the density limitations contained in the corresponding zones as identified in section 59-C-1.332. Section 59-C-1.332(b) stipulates that density limitations for MPDU development applicable to the R-200 zone apply in standard method TDR zones. Thus, the same R-200/MPDU development standards apply to the entire tract.

### Staff's Position

Sections 49-34(f) and 50-26(h) of the County Code give the Planning Board the authority to determine when a tertiary street may be used and to establish the right-of-way width. Per Section 50-26(h), a reduced-width tertiary may be approved by the Board if it can be demonstrated that the lesser width is environmentally better and either improves compatibility with adjoining properties, or allows better use of the parcel under consideration. Staff believes use of a tertiary street is appropriate for the extension of Fellowship Road onto the subject property, but insufficient information has been provided by the applicant to make a determination on whether the standard right-of-way width should be reduced. Written justification from the applicant must be provided with the preliminary plan for Environmental Planning staff to make recommendations on the necessary environmental finding. At a minimum, staff would expect a proposed reduced-width tertiary road to address the neighbors' concerns for tree preservation.

- **Compatibility with adjoining development**

### Applicant's Position

The applicant proposes to provide a 50-75 foot planted forest buffer between proposed units and existing houses along the northern property boundary. Along the rear of existing houses on adjacent Quince Valley Drive, the applicant proposes to preserve a minimum 50 foot forest buffer, where possible, as buffer for the proposed townhouses. Along the existing access drive where forest cannot be preserved, the applicant proposes dense landscaping and fencing. The proposed townhouses are also configured so that sides of units, rather than townhouse rows, are facing the rear of the existing houses.

### Staff's Position

Staff believes the proposed development generally addresses the issue of compatibility with adjacent development, but detailed review, especially by site plan staff, has not been done. Staff recommendations regarding the final location and number of lots will be based on future preliminary and site plan review.

- **Unit distribution**

### Applicant's Position

The plan proposes two pods of development with separate areas containing one-family detached and townhouse units. Written justification to support the distribution was not provided by the applicant.

### Staff's Position

The location of units is driven by the necessary configuration of roadway access to this site. The public roadway follows existing ingress/egress easements which must be maintained as access for the existing parcels which are not a part of the proposed development. The proposed one-

family detached dwellings must have frontage on public roads and are therefore, located on the northern half of the property.

The location of proposed townhouses is also driven by access issues. Location and configuration of Parcel 927, which is excluded from the proposed development, limits public road access to the southwestern portion of the site. A public road could conceivably be constructed within the fifty foot strip of land accessing the southwest corner of the site, but such a public road would be directly behind existing homes with no buffering. A private road configuration provides space for landscaping and setback of the road pavement. Since townhouses can be accessed by a private street, they are located in the southwest portion of the site.

Staff believes that the proposed unit distribution within the site is justified given the limitations associated with the parcels being assembled. The final number, location and orientation of the units should be determined as part of site plan review.

- **Over-length cul-de-sac**

Applicant's Position

The applicant has not provided written justification for the extension of Fellowship Lane as an over-length cul-de-sac.

Staff's Position

Per Section 50-26(d), a cul-de-sac should not be longer than 500 feet unless the Planning Board finds that a greater length is justified by reason of property shape, size, topography, large lot size, or improved street alignment. Fellowship Lane currently exists as an over-length cul-de-sac from Quince Orchard Road. Given the existing development surrounding the subject property which prevents road connection, and the narrow shape of the subject property, staff believes the finding can be made for further extension of Fellowship Lane as an over-length cul-de-sac. Final configuration of all on-site roadways will be subject to Montgomery County Fire and Rescue Service review as part of preliminary plan.

- **Environmental compatibility**

Applicant's Position

The proposed plan protects the environmentally sensitive areas on the site, where possible, and proposes on-site reforestation to compensate for existing forest that will be removed. The applicant has not provided written summary of their position regarding environmental compatibility, however, some issues are covered in their justification statement for modified dwelling unit mix (Attachment F, which is discussed below).

Staff's Position

Environmental Planning staff generally agree that the proposed plan provides minimum necessary protection of environmentally sensitive areas and could meet requirements for forest

conservation. However, other measures could be incorporated into a future preliminary plan to enhance environmental compatibility. In order to access the property the applicant must upgrade Fellowship Lane within a stream buffer. A preliminary forest conservation plan is not required at this time, but the proposed pre-preliminary plan indicates that 4.65 acres of forest are cleared, 1.6 acres are preserved, and 1.74 acres are planted. Environmental Planning staff have determined that this does not fully satisfy forest conservation requirements onsite, so there would also be approximately one acre of offsite planting needed. Given the elements of the proposed plan which require findings of environmental benefit, staff believes the preliminary plan should explore ways to compensate for existing and proposed disturbance, and meet all forest conservation requirements onsite.

- **Dwelling unit mix**

#### Applicant's Position

The proposed subdivision reflects a unit mix of 53 percent one-family detached units (16 units) and 47 percent townhouses (14 units). Per Section 59-C-1.6, approval of a unit mix that exceeds 40% townhouses requires a finding by the Planning Board that the proposed development is more desirable from an environmental perspective or that achievement of onsite MPDUs would otherwise not be possible. A justification statement has been provided by the applicant for use of greater than 40% townhouses (Attachment F). The applicant believes that the proposed unit mix results in a development that is more desirable from an environmental perspective because it permits preservation of a greater amount of forested and environmentally sensitive area onsite. The applicant also argues that this approach results in wider forest conservation areas between existing and proposed houses, improves useable yard area for the proposed houses, and increases separation between proposed homes and the adjacent forest conservation planting areas. Finally, the applicant believes the proposed unit mix reduces the amount of imperviousness on the site and thereby results in less runoff to downstream areas.

#### Citizen's Position

In his letter of November 11, 2005 (Attachment D), Craig Moskowitz objects to the use of greater than 40% townhouses because none of the adjacent existing developments exceed the standard. He also believes the mix is environmentally insensitive since it removes a significant portion of existing mature tree growth.

#### Staff's Position

Staff does not believe a finding can be made at this time that more than 40% townhouses in the dwelling unit mix would be more desirable from an environmental perspective. Environmental Planning staff agree that the higher ratio of attached units in the proposed plan improves forest save areas, but believes the minimum overall forest conservation requirements should be met onsite as part of the proposal. With regard to other environmentally sensitive areas, staff does not believe the proposal results in more preservation. The stream buffer, the area of greatest environmental concern, will have the same amount of impact regardless of the housing mix. As previously discussed, staff believes a future preliminary plan should explore ways to compensate for existing and proposed disturbance and meet all forest conservation requirements onsite. In

addition, the applicant's justification identifies that the higher mix of attached units will reduce the amount of impervious surfaces. This is true, but the applicant has not reduced the overall site imperviousness as much as possible. Within the detached housing areas, the plan shows single-family homes with 3 car garages which should be eliminated.

## **CONCLUSION**

Staff has no objection the submittal of future preliminary and site plans for the subject property which address the issues and concerns discussed above. Staff believes the applicant's density calculation is acceptable and that maximum achievable density using the R-200 standards with the MPDU option is 30 dwelling units. Staff believes Fellowship Lane should be extended onto this site as a tertiary road, and that a finding can be made for its continued existence as an over-length cul-de-sac. Staff does not believe sufficient justification has been provided at this time to support a reduced-width right-of-way for the tertiary street. With regard to compatibility of the proposed development with surrounding properties, staff generally finds that the proposed configuration and buffers are acceptable, but believe that final number and location of units should be determined at site plan stage. Staff agrees with the proposed unit distribution on the property. Finally, staff does not believe sufficient justification has been provided to support the proposed unit mix and make a full determination on environmental compatibility. Additional information should be incorporated into the preliminary and site plan submissions.

### **Attachments**

- Attachment A – Site Vicinity Map
- Attachment B – Preliminary Plan
- Attachment C – August 15, 2005 Citizen letters
- Attachment D – August 16, 2005 Citizen letters
- Attachment E – November 11, 2005 Citizen Letter
- Attachment F – Applicant's Justification for Unit Mix