

JUN 6 2012



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

MCPB No. 12-41  
Site Plan No. 820120030  
Project Name: Brookeville Preserve  
Date of Hearing: March 15, 2012

**RESOLUTION**

WHEREAS, under Montgomery County Code Division 59-11-3, the Montgomery County Planning Board ("Planning Board") is authorized to review site plan applications; and

WHEREAS, on August 4, 2011, Carl M. Freeman ("Applicant"), filed an application for approval of a Site Plan for 16 residential dwelling units consisting of 5 one-family detached homes and 11 townhomes ("Site Plan") on 12.77 acres of RE-2/TDR-4-zoned land, located in the southeast quadrant of the intersection of Georgia Avenue (MD 97) and Owens Road in Olney ("Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820120030, Brookeville Preserve ("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 March 1, 2012, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on March 15, 2012, the Planning Board held a public hearing on the Application, and at the hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 15, 2012, the Planning Board voted to approve the Application subject to conditions on the motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor, with Presley absent from the hearing.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board APPROVES Site Plan No. 820120030 for 16 residential dwelling units consisting of 5 one-family

---

Approved as to  
Legal Sufficiency:

8787 Georgia Avenue, Spring, Maryland 20910

M-NCPPC Legal Department

www.MCParkandPlanning.org

E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

Chairman's Office: 301.495.4600 Fax: 301.495.1320

detached homes and 11 townhomes, on the Subject Property, subject to the following conditions:<sup>1</sup>

### **Conformance with Previous Approvals**

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120110070.

### **Environment**

2. Forest Conservation & Tree Save

The development must comply with the conditions of approval for the final forest conservation plan. The Applicant must meet all conditions prior to the recording of a plat(s) or the issuance of sediment and erosion control permits by the Montgomery County Department of Permitting Services ("MCDPS"), as appropriate.

3. Noise Attenuation

- a) Prior to issuance of the first building permit, the Applicant must provide certification to Staff from an engineer that specializes in acoustical treatment that:
- the location of the noise mitigation techniques to attenuate current noise levels to no more than 60 dBA Ldn for the outdoor backyard area of homes and areas of common outdoor activity are adequate; and
  - the building shell for residential dwelling units to be constructed within the projected  $\geq 60$  dBA Ldn noise contour is designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- b) If any changes occur to the Site Plan that affect the validity of the i) noise analysis dated February 17, 2012, ii) acoustical certifications, or iii) noise attenuation features, a new noise analysis will be required to reflect the revised plans, and new noise attenuation features may be required.
- c) Applicant/developer/builder to certify that they will construct the noise impacted units in accordance with the recommendations of the engineer that specializes in acoustical treatments.

4. Stormwater Management

---

<sup>1</sup> 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.

The development is subject to stormwater management concept approval conditions dated June 8, 2011. The conditions may be amended by MCDPS provided they do not conflict with the Site Plan approval.

### **Parks, Open Space, and Recreation**

5. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Staff prior to issuance of the 12<sup>th</sup> building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

### **Transportation & Circulation**

6. Transportation

The development is limited to 16 residential dwelling units (5 one-family detached and 11 one-family attached units).

7. Right-of-way

Applicant must address MCDPS' right-of-way comments in the correspondence dated November 21, 2011, prior to Certified Site Plan.

### **Density**

8. Transfer of Development Rights ("TDR"s)

- a) The Applicant must purchase 10 TDRs for the approved development.
- b) The serial number for each TDR acquired must be shown on its respective record plat.

### **Site Plan**

9. Compatibility/Architecture

Provide architectural treatment on the side facades of Lots 1, 11, 12 and 14 that includes one or more of the following: brick facing (if the fronts of those units are brick), box or bay window, minimum of two windows, shutters, or fireplace, on the side facades of Lots 1, 11, 12 and 14. Alternative options must be shown on the Certified Site Plan and submitted to the MCDPS- Site Plan Enforcement with the building permit.

10. Private Lighting

- a) The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.

- b) All on-site down- light fixtures must be full cut-off fixtures.
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d) Illumination levels shall not exceed 0.5 foot candles (fc) at any property line abutting county roads and residential properties.
- e) The height of the light poles above grade shall not exceed 12 feet including the mounting base.

#### 11. Surety

Prior to issuance of first building permit within each relevant phase of development, Applicant must provide a performance bond(s) or other form of 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 or surety shall include plant material, on-site lighting, site furniture, private roads, retaining walls, railings, fences, and entrance sign within the relevant phase of development.
- c) Prior to issuance of the first building permit, 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) Bond/surety shall 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.

#### 12. Development Program

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 its 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 forest conservation plan, sediment control plan, and M-NCFPC inspection and approval of all tree-save areas and protection devices.
- b) Street lamps and sidewalks must be installed within six months after street construction is completed. Street tree planting may wait until the next growing season.
- c) The development program must provide phasing for installation of on-site landscaping and lighting.

- d) On-site amenities including, but not limited to, the sitting area with benches within the townhouse cluster must be installed prior to the release of the 11<sup>th</sup> townhouse building permit.
- e) Provide each section of the development with necessary roads.
- f) The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

### 13. Certified Site Plan

Prior to approval of the certified site plan the following revisions must be made and information provided subject to Staff review and approval:

- a) Include the final forest conservation plan 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 data table to reflect development standards enumerated in the staff report.
- d) Adjust the berm grading to provide the noise protection required.
- e) Provide detail of the board-on-batten noise fence.

BE IT FURTHER RESOLVED, that all site development elements as shown on the Brookeville Preserve drawings stamped by the M-NCPPC on January 25, 2012, shall be 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 Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County 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.*

A development plan, diagrammatic plan, schematic development plan, or project plan were not required.

2. *The Site Plan meets all of the requirements of the RE-2/TDR 4 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 RE-2/TDR-4 Zone under the optional method of development using TDRs.

The Planning Board grants a waiver of the requirement to acquire at least two-thirds of the number of development rights permitted to be transferred to the Property under Section 59-C-1.393(b). Because the Subject Property is heavily constrained by environmental buffers associated with the stream and existing gas line easements, the remaining developable areas are not physically large enough to accommodate the density needed to meet the two-thirds requirement. The Applicant will acquire a total of 10 TDR's.

Optional method of development using TDRs requires compliance with the compatibility requirements of the Planned Development (PD) Zone (Section 59-C-7.15). The Subject Property adjoins land zoned RE-2/TDR-4, which is the same zone as the Subject Property and thus enables similar densities as those approved. The Site Plan includes townhouses located more than 100 feet from adjoining land recommended for the one-family detached zone; and the maximum height for the detached units is 30 feet which equals the approved minimum setback from adjoining land recommended for the one-family detached zone. As further discussed in Finding No. 4 below, the Site Plan is compatible with other uses and with existing adjacent development.

**Data Table for the RE-2/TDR-4 Zone, Optional Method of Development**

<b>Development Standards</b>	<b>Approved by the Planning Board and Binding on the Applicant</b>
<b>Site Area (acres)</b>	
Gross Tract Area (GTA)	12.77
ROW Dedication	0.23
Net Lot Area	12.54
<b>Density</b>	
Density of Base Zone (RE-2)	6 du (= 12.77 x 0.5)
Density with TDRs	51 du (= 12.77 x 4)
TDR's	
- Max. TDR allowed	45 (= 51 - 3)
- Min. TDR required (59-C-1.393(b))	30 (= 2/3 x 45)
- To be acquired	10 * (= 16 - 6)
Unit Mix (59-C-1.395)	

- One-family detached	31% (5 du)
- One-family attached	69% (11 du)
Total	100% (16 du)
<b>Min. Green Area</b>	
(% of net lot area) (59-C-1.395)	91.3% (1.45 acres)
<b>Min. Setbacks (feet)</b>	
One-family detached	
- Front	20
- Rear	20
- Side	5
- Side (lot 16)	30
One-family attached	
- Front	10
- Rear	10
- Side (end units)	4
Accessory Buildings	
- From street line	60
- From rear lot line	5
- From side lot line	5
<b>Min. Lot Area (square feet)</b>	
One-family detached	9,000
One-family attached	1,500
<b>Min. Lot Width (feet)</b>	
At street front:	
One-family detached	25 (public street)
One-family attached	20 (private street)
<b>Max. Building Height (feet)</b>	
One-family detached	30
One-family attached	40
Accessory building	25
<b>Vehicle Parking (number of spaces) (59-E)</b>	
One-family detached (5)	10 (2 sp/du)
One-family attached (11)	32 (2.9 sp/du)

\* Required minimum waived due to environmental constraints on the Subject Property.

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 Site Plan includes 16 dwelling units divided into two clusters. The location of the units adequately avoids environmentally sensitive areas and existing utility easements on the Subject Property. One cluster, consisting of 11 one-family attached/townhouse units is located in proximity to Georgia Avenue. The other with 5 one-family detached units is oriented towards Owens Road.

The townhouse cluster is adequately setback from Georgia Avenue and allows room for a landscaped berm. In addition, the units take advantage of the existing drop in elevation from Georgia Avenue to reduce their perceived height. As a result, these units will have limited presence and visibility from Georgia Avenue. The monumental entrance sign into the development off Georgia Avenue identifies the community and contributes to the sense of arrival.

b) Open Spaces

The Site Plan preserves the stream valley area and associated environmental features as open space and amenity area with limited access. This area is mostly forested and contrasts with the openness of the gas line easements.

The RE-2/TDR Zone does not have an open space requirement; instead it has a minimum green area requirement of 35 percent of the gross net area. The Site Plan exceeds the green area requirement by providing a combined total of 91.3 percent (or 11.45 acres) of green space.

c) Landscaping and Lighting

The landscape plan with an emphasis on native species provides adequate buffer and screening for the townhouse units as viewed from Georgia Avenue. The plant material in this area includes mostly evergreen trees and shrubs, which combined with the berm, limits the visibility of the townhouse units. Additionally, the landscaping provides shade in the seating area next to the townhouses and the rear yards of the detached units. Smaller plant material, such as groundcovers and seasonal plantings, evergreen and deciduous shrubs, and ornamental trees emphasize the entrance to the development.

Street lighting consists of pole mounted light fixtures with a maximum height of 12 feet located on the private driveway serving the townhouses. The approved lighting will create enough visibility to provide safety but not so much as to cause glare on the adjacent roads or properties.

d) Recreation Facilities



No recreation facilities are required for this Site Plan because it contains fewer than 25 one-family homes.

e) Vehicular and Pedestrian Circulation

Access to the 11 townhouses is from Georgia Avenue and two separate driveways will provide access to the five, one-family detached units on Owens Road. The Applicant explored combining the easternmost driveway on Owens Road with an existing shared driveway on the neighboring property, and MCDOT granted a waiver to allow five units on a single shared driveway. However, as of the date of the hearing, an agreement had not been reached between the adjoining property owners and the Applicant for the shared use of that existing driveway. As a result, the Site Plan shows a driveway entirely within the Subject Property and includes the shared driveway as an option should the affected property owners come to a mutual agreement prior to record plat. Either driveway alignment would be safe, adequate, and efficient.

The pedestrian circulation system adequately and efficiently integrates this Site Plan into the surrounding area. A 5-foot wide sidewalk is provided along the frontage on Owens Road and an 8-foot wide asphalt shared use path is provided along Georgia Avenue within the public right-of-way, connecting to the existing path. The Site Plan will provide a lead-in sidewalk from Georgia Avenue serving the townhouse cluster and a crosswalk across Owens Road at the intersection with Georgia Avenue.

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

Existing adjacent development consists of one-family detached units to the east and to the north across Owens Road, and townhouses to the south of the Subject Property. The Site Plan provides compatibility by locating the one-family detached units along the eastern and northern portions of the Subject Property in proximity to existing one-family detached units, and by locating the townhouse cluster along the western boundary away from the existing one-family detached units and buffered by existing forest.

Compatibility with the surrounding community and the existing character of Georgia Avenue is also established by limiting the visibility of the townhouse cluster. This is accomplished by providing sufficient setback to accommodate a landscaped berm between the approved units and the road, and siting the units within the existing grade, effectively reducing their perceived height from Georgia Avenue.

As discussed above, optional method of development using TDRs requires compliance with the compatibility requirements of the PD Zone. The Subject Property adjoins land similarly zoned RE-2/TDR-4, which enables similar densities as those approved.

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.*

As required by the County Forest Conservation Law (Section 22A of the County code), a final forest conservation plan for the project was submitted with the Site Plan. The preliminary forest conservation plan was reviewed and approved as part of Preliminary Plan No. 120110070, Brookeville Preserve, at the same hearing as this Site Plan. There were no changes from the preliminary to the final forest conservation plan.

The storm water management concept approved on June 8, 2011, meets the required stormwater management goals by the use of environmentally sensitive design measures to the maximum extent practicable. Treatment is provided via micro-biofilters, landscape infiltration facilities, drywells, and areas of sheet flow to buffers.

As conditioned, the development will be in compliance with maximum exterior noise level recommended for this part of the county. The noise analysis indicates that unmitigated noise levels will exceed 60 dBA Ldn for the single family townhome units on Lots 1-11, and the single family detached units on Lots 12 and 13.

In order to mitigate unacceptable noise levels, the Site Plan provides i) an earthen berm located parallel to Georgia Avenue, between Georgia Avenue and Lots 1-8, ii) a 6-foot high board on batten noise fence behind Lots 1-8, and iii) acoustical treatment (i.e., noise mitigating building construction materials) on Lots 1-13 to meet the County's indoor noise guideline of 45 dBA Ldn.

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

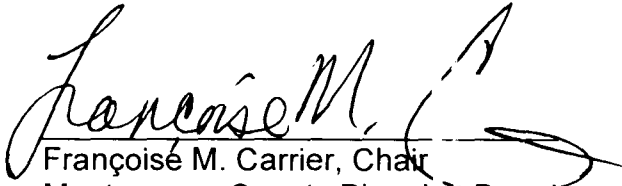
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board, and the date of this Resolution is JUN 6 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, May 31, 2012, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board