



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

DEC 11 2013

MCPB No. 13-166
Site Plan No. 820130260
Project Name: Potomac Highland
Date of Hearing: December 5, 2013

RESOLUTION

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

WHEREAS, on May 22, 2013, Winchester Homes, Inc. ("Applicant") filed an application for approval of a site plan for 23 townhouse units (including 4 MPDUs) ("Site Plan" or "Plan") on 5.24 acres of R-90 zoned land, located on the east side of Seven Locks Road approximately 1,600 feet north of Democracy Blvd. ("Property" or "Subject Property"), in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, the May 22, 2013 application was designated Site Plan No. 820130260, Potomac Highland ("Site Plan" or "Application"); and

WHEREAS, on November 22, 2013, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 5, 2013, the Planning Board held a public hearing and heard testimony concerning the Application, and voted to approve the Application, subject to certain conditions, by the vote as certified below;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820130260 for 23 townhouse units, including 4 MPDUs, on 5.24 acres in the R-90 zone, the Subject Property, subject to the following conditions:¹

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.

Approved as to
Legal Sufficiency

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M-NCPPC Legal Department
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1. Pre-Preliminary Plan Conformance
The development must comply with the conditions of approval for Pre-Preliminary Plan No.720130040.
2. Preliminary Plan Conformance
The development must comply with the conditions of approval for Preliminary Plan No.120130260, unless amended.
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) or the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services ("MCPDS"). Additionally, the Applicant must:
 - a) Meet offsite mitigation of 0.20 acres prior to land disturbing activities;
 - b) Ensure that the record plat reflects a Category I easement over forest retention and planting areas along the perimeter of the Subject Property; and
 - c) Provide native evergreen landscaping and reforestation on the north side of the property under the supervision of a certified arborist to ensure that existing trees within the forest are not harmed. Particular attention should be paid to protection of the 42" white oak (tree #955).
4. Common Open Space Covenant
The record plat of subdivision must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant must provide verification to Staff prior to issuance of the first building permit that the Applicant's recorded Homeowners Association Documents incorporate the Covenant by reference.
5. Maintenance of Common Open Space
The Certified Site Plan must include a description of the procedure and methods to be followed for assuring the common use and adequate maintenance of common open space included in the plan.
6. Moderately Priced Dwelling Units (MPDUs)
 - a. The development must provide 4 MPDUs on-site in accordance with the approval letter from the Department of Housing and Community Affairs ("DHCA") dated November 13, 2013. The Applicant is receiving a 22 percent density bonus for providing 4 MPDUS (15 percent of the total dwelling units on-site).
 - b. The MPDU agreement to build must be executed prior to the release of any building permits.

7. Site Design

- a. The internal sidewalk along the private roadway must be a minimum of 5-foot wide.
- b. Parking spaces that directly abut the 5-foot sidewalk must include wheel stops.
- c. The playground detail must indicate minimum clearing distances (i.e. fall zones) around the playground equipment.

8. 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 downlight fixtures must be full cut-off fixtures.
- c. Deflectors must be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e. The height of the light poles must not exceed 13 feet including the mounting base.

9. Landscape Surety

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

- a. The amount of the surety will include plant material, on-site lighting, recreational facilities, site furniture, and private roads within the relevant block of development. The surety must be posted prior to the issuance of the first building permit within each relevant phase of development, and it must be tied to the development program.
- b. The Applicant must provide a cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial bond amount.
- c. Plantings will be completed by phase and followed by inspection and bond reduction. Inspection approval starts the first year maintenance period, and the bond release occurs at the expiration of the one year maintenance period.
- d. The Applicant must provide a Surety Agreement that outlines the responsibilities of the Applicant and incorporates the cost estimate. The Surety Agreement must be executed prior to issuance of the first building permit.

10. Development Program

The Applicant must construct the 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. 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.
- b. The on-site amenities including, but not limited to, benches, trash receptacles, playground facilities and bicycle facilities must be installed after the release of 70 percent of the building occupancy permits.
- c. The sidewalks will be constructed with the associated stick of townhouse units to ensure safe and adequate pedestrian access to the townhouse units and the other on-site amenities.
- d. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- e. The development program must provide phasing for installation of on-site landscaping and lighting.
- f. Landscaping associated with each parking lot and building must be completed as construction of each facility is completed.
- g. Each section of the development must be provided with necessary roads.
- h. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation and other features.

11. Certified Site Plan

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

- a. Include the Final Forest Conservation approval, stormwater management concept approval, development program, inspection schedule, and Site Plan resolution on the approval or cover sheet.
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices prior to clearing and grading."
- c. Modify data table to reflect development standards enumerated in the Staff Report.
- d. Ensure consistency of all details, site layout and forest conservation easement lines between the Site and Landscape Plans.

BE IT FURTHER RESOLVED, that all site development elements, as shown on Potomac Highland drawings stamped by the M-NCPPC on November 6, 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 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 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 Subject Property is not covered by a Development Plan, Diagrammatic Plan, Schematic Development Plan, or Project Plan.

2. *The Site Plan meets all of the requirements of the R-90 zone.*

This Site Plan fulfills the purpose of the R-90 Zone by providing market rate housing and MPDUs under the MPDU optional method of development. This development method, described in Section 59-C-1.2, permits increased density where MPDUs are included in accordance with Chapter 25A of the County Code. In the R-90 zone, the maximum number of one-family attached dwelling units, semidetached dwelling units, or townhouses allowed in a subdivision is 50 percent of the total units. Under Section 59-C-1.629, a development with 20 or fewer dwelling units that devotes 12.5 percent or more of those units to MPDUs may use the optional method development standards and construct 100 percent townhouses. However, for this to occur, the Planning Board must find that the increased use of townhouses is: A) more desirable for environmental reasons and B) the increased use of townhouses is compatible with adjacent developments. As the Board found in reviewing the pre-preliminary plan for this development, this Application satisfies the provisions of the Zoning Ordinance under these sections for the following reasons:

A) Environmental Benefits

The standard R-90 development with one-family attached lots would cause a larger impact to the site and existing forest than a 100 percent townhome development, due to the requirements and design standards for public road access. Currently, the Subject Property includes 4.31 acres of forest cover, of which the Application proposes to remove 3.05 acres and retain 1.26 acres. This proposal will provide more common open space (with conservation easements) than would exist if the Property were developed for single family dwelling units with private yards. The townhouse development will also preserve a greater number of specimen trees and allow the Applicant to exceed forest conservation thresholds (20 percent of the Property) on-site.

B) Compatible with Adjacent Developments

The Subject Property with 100 percent townhouses is compatible with the abutting Inverness North townhouse development north of the Property and the Turning Creek townhouse development south of the Property. The residential use is appropriate and continues the existing townhouse residential character along the east side of Seven Locks Road. There are no single family detached dwellings adjacent to the proposed development. All adjacent areas are either parkland or existing townhouse developments. The MPDU units will be similar in width, appearance, building height (3-stories), and unit type (front load garage) as the market rate units.

Further, all of the townhouse units will front onto a private roadway, and common open space is included in the overall green area calculations.

Development Standards

Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and on other evidence and testimony of record, the Application meets all of the applicable requirements of the R-90 zone.

Project Data Table for the R-90 Zone

Development Standard	Permitted/Required	Approved
Gross Site Area (Usable Area)	N/A	5.41 ac.
Previous Road Dedication	Required	0.17 ac.
Net Site Area (ac.)	Required	5.24 ac.
Property Calculations		
Max. Lot Coverage (%)	N/A	80%
Min. Green Area (sq. ft.) ²	46,000 sq. ft.	161,944 sq. ft.
Residential Calculations		
Max. Density (d.u./ac.)	4.39 d.u./ac.	4.39 d.u./ac.
Min. Lot Size (sq. ft.)	1,500 sq. ft.	1,500 sq. ft.
Total Number of Units	23 units ³	23 units
Market Rate Units	19 units	19 units
Min. MPDUs	15% (4 units)	15% (4 units)

² Per section 59C-1.627, green area must be provided for each townhouse at the rate of 2,000 sq. ft. per unit.

³ MPDUs provided under Section 59-C-1.629.

Max. Building Height (feet)	3 stories (40 feet)	3 stories (40 feet)
Total Parking Spaces	46 spaces ⁴	61 spaces
Garage Spaces	N/A	42 spaces
Driveway	N/A	4 spaces
Surface Spaces	N/A	15 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 townhouse units are located in the center of the Property, and are adequately buffered from Seven Locks Road with steep slopes and forested edges along the Property boundaries. Some of the rows of townhouses are also built into the grade in order to create more usable space between lots. The four MPDUs will be located together. Although MPDUs are not typically grouped together, on the Subject Property their proximity to parkland and public amenities and their high elevation are benefits to the potential owners. All of the townhouse units on the Subject Property are efficiently aligned to front onto the private roadway, will adequately meet the aesthetic concerns of the area, and do not pose any safety concerns on-site.

b. Open Spaces

Open space on the Subject Property will be adequate to serve residents. The retaining walls along the main entrance driveway stabilize and curve into the existing topography in order to allow adequate access to the site and create more usable common space areas. The on-site green areas include common open space, pathways, forested buffers, landscaped areas, and lawns. Each of these spaces will be transferred over to the Homeowner's Association; however, until such time these public amenities will be maintained by the developer.

c. Landscaping and Lighting

The landscaping on the Subject Property provides a screen for the parking, stormwater management facilities, and the front and rear yards of the building. Street trees and light fixtures will be provided along the

⁴ Per section 59E-3.7, townhouse units require 2 spaces each.

street to enhance the pedestrian environment. Lighting on the Subject Property will create enough visibility to provide safety, but not so much as to cause glare on the adjacent roads or properties. The landscaping and site details adequately and efficiently address the site requirements, while providing a safe and comfortable environment for the residents.

d. Recreation Facilities

Recreational facilities are not required, because the development consists of fewer than 20 units. However, a seating area and playground facility are provided in the center of the Property at the end of the private roadway between Lots 10 and 11.

e. Vehicular and Pedestrian Circulation

The internal sidewalks will consistently connect into the 5-foot public sidewalk along Seven Locks Road within the public right-of way. Therefore, the pedestrian access from adjacent sidewalks adequately and efficiently integrates this Property into the surrounding area. The private roadway follows the existing topography into the Subject Property, and it provides safe and adequate access to the parking facilities, the townhouse units and common space areas. Internal traffic through the Property will have minimal impacts to the pedestrian circulation. This Property meets the recommendations of the Master Plan and provides a safe environment for pedestrians, cyclists, and vehicles.

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

This development is compatible with the adjacent and confronting properties (Inverness North and Turning Creek), which are also developed with 100 percent townhouse units. The residential use is appropriate and continues the existing townhouse residential character along the east side of Seven Locks Road. The townhouse units will not exceed the maximum building height requirements and are adequately buffered from Seven Locks Road and the surrounding communities with an existing forested property edge. There are no single family detached dwellings adjacent to the proposed development. All adjacent areas are either parkland or existing townhouse developments. The MPDU units will be similar in width, appearance, building height (3-stories), and unit type (i.e. front load garages) as compared to the market rate units on-site.

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 site is almost entirely forested. The area of forest to be removed is 3.05 acres with 1.26 acres of forest retained. Forest retention exceeds the 20 percent forest conservation threshold by 0.17 acres. A 0.48-acre reforestation requirement is being partially met on-site by supplementing remaining forest areas with 0.28 acres of planting. In addition, off-site mitigation of 0.20 acres is required. The stormwater management concept consists of dry wells and micro-bioretenment that have been deemed acceptable by MCDPS.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board and 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 the date of this Resolution is DEC 11 2013 (which is the date that this Resolution is mailed to all parties of record); and

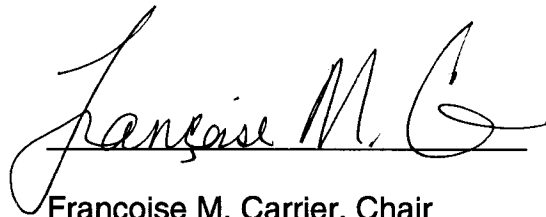
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson and Dreyfuss voting in favor, and Commissioner Presley absent, at its regular meeting held on Thursday, December 5, 2013, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board