



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
3/11/04
Item #2

MEMORANDUM – SPECIAL EXCEPTION

DATE: March 5, 2004
TO: Montgomery County Board of Appeals
VIA: Sue Edwards, Team Leader, I-270 Team
FROM: Bill Landfair, AICP, for the Department of Park and Planning

SUBJECT: **Board of Appeals Petition No. S-2597 (Special Exception)** Avalon Bay Communities, Inc. – Residential Dwellings – northeast corner of Diamondback Drive and Decoverly Drive, Gaithersburg, O-M Zone – Shady Grove Study Area Master Plan

FILING DATE: November 25, 2003
PUBLIC HEARING: March 19, 2004

STAFF RECOMMENDATION: APPROVAL with the following conditions:

1. The applicant is bound by all submitted statements and plans.
2. Approval of an amended preliminary plan and site plan by the Planning Board
3. Compliance with the conditions of the approval of the Forest Conservation Plan prior to MCDPS release of sediment and erosion control permit.
4. A floodplain permit and a wetland permit are required for extending Decoverly Drive or for any other improvements across existing wetland and stream buffer areas.

INTRODUCTION

The applicant has proposed a special exception to permit the construction of 196 residential dwellings in the O-M (Office-building, Moderate Intensity) Zone. Of these dwellings, 35% or 69 of the apartments are proposed as productivity housing units. The subject property is located within the boundaries of the 1990 *Shady Grove Study Area Master Plan*. While the Master Plan's land use map indicates offices for this site, the Zoning Ordinance permits residential dwellings in the O-M zone by special exception if certain standards are met.

The staff supports housing at this location and finds that it will be compatible with both the surrounding development as well as future development planned for the surrounding neighborhood. Additional housing is needed in this area to balance the jobs that are available at the nearby Life Sciences Center and provide residential options in close proximity to this employment and education center.

PROJECT SUMMARY

Site Description

The subject property is located in the northeast corner of Diamondback Drive and Decoverly Drive, Gaithersburg. This location is approximately 500 feet north of the intersection of Diamondback Drive and Key West Avenue (MD 28). The property is comprised of two recorded parcels (Parcel "MM" on Plat No. 17632 and Parcel "NN" on Plat No. 18850) for a total of approximately 10.8 acres of land. The site is irregular in shape with approximately 250 feet of frontage on Diamondback Drive and 900 feet of frontage on Decoverly Drive. The property is zoned O-M (Office-building, Moderate Intensity). The site topography and environmental features include a substantial wooded area and a small tributary to the Shady Branch. This tributary is fed by a large stormwater management pond located immediately upstream serving the adjoining Decoverly Hall office complex. The property is currently unimproved.

Neighborhood Description

The applicant has identified the surrounding neighborhood as that area encompassed by Key West Avenue on the south, Omega Drive to the east, Great Seneca Highway on the west and the Crown Farm to the north. Staff agrees with the limits of this defined neighborhood for purposes of determining that area which may be impacted in some way by the special exception use. Essentially, the neighborhood includes those properties that are within view of the subject property or may be affected by traffic generated by the proposed use.

The surrounding neighborhood includes a variety of commercial uses, residential development and undeveloped farmland. Immediately to the north of the subject property lies the Crown Farm in the R-200 and R-60/TDR Zones. The farm is

undeveloped and extends all the way to Fields Road and the Washingtonian Center. To the east and south is the Decoverly Office Park, which includes the National Association of Securities Dealers, Inc. (NASDAQ) and a stormwater management pond in the O-M Zone. Further to the south, across Key West Avenue, is the Life Sciences Center. In the southwest corner of Diamondback Drive and Decoverly Drive is an undeveloped tract of land in the I-3 Zone. To the west, across these roadways, is the Decoverly townhouse community in the R-60/TDR Zone and a multi-family community called Avalon at Decoverly Phase I in the R-60/TDR Zone. This development is owned and managed by the applicant. There are no existing special exceptions in the neighborhood.

Project Description

The applicant has proposed the special exception to permit 196 residential dwellings in the O-M Zone. Of these dwellings, 35% or 69 of the apartments are proposed as productivity housing units. The development will be located in two sections, separated by a stream valley. The buildings will be a combination of three and four story structures. A total of 274 parking spaces will be provided in surface parking lots and a small number of garages. Two points of vehicular access will be provided from Decoverly Drive, which will be extended along the frontage of the subject property to accommodate this access.

An extensive network of sidewalks and trails will connect with the existing pedestrian network in the area. Recreation facilities will include a tennis court, tot lot, picnic benches and sitting areas, a gazebo and an open play area. In addition, the existing clubhouse in the nearby Avalon at Decoverly development will be renovated and a new fitness center constructed. Significant landscaping and buffers are proposed to enhance the development and provide buffer from adjacent properties and roadways. Lighting will consist of 12-foot high pole mounted fixtures with 175W bulbs. Many of these fixtures will utilize cut off shields. The existing stream valley and wetland buffers will be maintained.

Additional Review Procedures

The subject property was previously recorded by plat of subdivision. The applicant has filed an amendment to the approved preliminary plan and will file for an amended site plan pursuant to Chapter 59-D-3 of the Zoning Ordinance.

ANALYSIS

Master Plan

The subject property is located within the boundaries of the 1990 *Shady Grove Study Area Master Plan*, which is currently being updated.

Neighborhood Context

Existing development in the surrounding neighborhood includes the undeveloped Crown Farm to the north, the Decoverly Office Park to the east and south, and the Decoverly/Avalon residential development of multi-family housing and townhouses.

The 1990 *Shady Grove Study Area Master Plan* recommended that the Crown Farm be developed as a residential community with 2,000 dwelling units, an elementary school and a local park. The Plan also recommended the alignment of the Corridor Cities Transitway on the east side of Decoverly Drive, along the frontage of the subject property. Two transit stations are recommended within the Crown Farm, one in close proximity to the subject property.

Master Plan Conformance

The 1990 *Shady Grove Study Area Master Plan* does not include a specific, written recommendation for this property. On the Plan's land use map, the parcel is identified for employment/office use. The zoning for the property is O-M (Office-building, Moderate Intensity).

While the Master Plan's land use map indicates offices for this site, the Zoning Ordinance permits residential dwellings in the O-M zone by special exception if certain standards are met, including compatibility with surrounding development. Staff finds that housing is compatible at this site, with both the surrounding development as well as future development planned on the Crown Farm. Additional housing is needed in this area to balance the jobs that are available at the Life Sciences Center and provide residential options in close proximity to this employment and education center. The provision of productivity housing is also a benefit in this area.

Pedestrian and Site Plan Issues

It is important for the subject property to be developed with an emphasis on pedestrian-friendly design principles due to the future land uses and transit planned in the immediate vicinity of this project. A number of community facilities including a school are planned for the Crown Farm. This school will be within walking distance of the subject property.

On the northern half of the property, the existing topography and intensity of development has resulted in parking surrounding the buildings. In order to emphasize the pedestrian environment, a direct and clear walkway is proposed from Decoverly Drive through the center of the site. Along Decoverly Drive, which is the sole link to the recreation facilities for the majority of residents that will live on the northern section, the sidewalk should be built to hiker/biker trail

standards (8-12 feet wide) rather than the proposed 5 foot sidewalk and should provide a tree panel. At site plan, careful consideration should be given to the design of internal sidewalks, which should also be wide and tree-lined.

In addition, the Corridor Cities Transitway (CCT) is planned to run along Decoverly Drive in front of the property, with a transit stop within easy walking distance of the site. The special exception site plan provides the 50-foot right-of-way for the CCT, per the Master Plan recommendation. However, a 10-foot Public Utility Easement (PUE) is shown within the CCT right-of-way rather than within the property. Also, this PUE is shown adjacent to the street right-of-way rather than the property. The location of the PUE should be further explored at site plan. It is not clear that it can be located within the CCT right-of-way. However, if that is a possibility, then it is preferable that the PUE be placed adjacent to the property so that future trains or buses are close to the road rather than close to residences.

A detailed landscaping plan and lighting plan were submitted with the application. Based on these plans, staff finds the proposed landscaping and lighting to be adequate given the nature of the proposed use, the characteristics of the site, and the character of the surrounding area. At site plan, the landscaping and lighting plans may be further refined. Proposed landscaping is extensive and includes shade trees, evergreen trees, ornamental trees, flowering shrubs, groundcovers, and perennials/grasses.

A photometric plan was submitted with the lighting plan. It shows that uniform lighting will be provided for the development with little impact on adjoining properties. Staff finds the photometric plan to be conservative in its estimation of lighting levels because it does not take into consideration the moderating effect of the proposed cut off shields proposed for some of the pole lights. A number of these lights will be near buildings and do not have these shields. While not necessary to ensure compatibility, staff recommends that any pole-mounted lights near buildings be equipped with cut off shields for the benefit of residents.

Transportation

The subject property is located within the Research and Development (R&D) Village Policy Area. Based on the Transportation Planning staff review of the submitted traffic analysis, staff will recommends the following conditions as part of the Adequate Public Facilities (APF) review to be conducted at the time of the review of the revised preliminary plan:

1. Total development under this special exception application is limited to 196 residential dwelling units.
2. As a condition of site access, the applicant shall construct Decoverly Drive from the end of existing pavement through the

property with a cross-section to be determined at the time of preliminary plan review and accepted by the Department of Public Works and Transportation (DPWT) and M-NCPPC technical staff.

3. The applicant should coordinate with the Maryland State Highway Administration's on-going I-270/US 15 Multi Modal Study regarding alignment of the Corridor Cities Transitway.

Local Area Transportation Review

Three local intersections were identified as critical intersections to be affected by the development of the subject site and were examined in the traffic analysis to determine whether they meet the applicable congestion standard of 1,525 Critical Lane Volume (CLV) for the R&D Village Policy Area. The CLV impacts of the proposed development on these intersections were analyzed and are summarized in Table I.

Table I

Intersection Capacity Analysis with CLV Under Various Development Schemes During the Peak Hour						
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
MD 28/MD 119	1345	1001	1368	1099	1369	1102
MD 28/Diamondback Drive	1064	1032	1216	1267	1268	1295
MD 119/Decoverly Drive	1049	1217	1186	1477	1189	1482

As shown in the above table, all existing intersections analyzed are currently operating at acceptable CLVs (CLV standard is 1,525) during both the morning and evening peak hours and these acceptable traffic conditions are projected to be maintained under the background and total development conditions.

Site Access and Vehicular/Pedestrian Circulation

Staff finds the proposed access points from Decoverly Drive, which is to be constructed by the applicant along their frontage, and the vehicle circulation system shown on the site plan adequate. Staff also finds the pedestrian circulation system with 8' bikepath and 5' sidewalk to be constructed along Decoverly Drive by the applicant and the existing 5' sidewalk along Diamondback Drive safe and adequate.

Corridor Cities Transitway

The Master Plan includes the Corridor Cities Transitway along Decoverly Drive and recommends 50 feet right-of-way for the transitway use. The 50 feet of right-of-way along the site frontage was required to be in reservation for the future dedication for the transitway use by the Planning Board at the time of approval of the previous preliminary plan. The State Highway Administration (SHA) is currently conducting the I-270/US 15 Multi Modal Study that includes the Corridor Cities Transitway in the vicinity of the subject site. The applicant should coordinate with the SHA's project planning study regarding alignment of the Corridor Cities Transitway.

Policy Area Transportation Review

Based on the FY 04 Annual Growth Policy staging ceiling capacity, there is sufficient capacity available for housing development (424 housing units as of January 31, 2004) in the R & D Village Policy Area.

Environment

The Environmental Planning staff recommends approval of the special exception with the following conditions:

1. Compliance with the conditions of the approval of the Forest Conservation Plan prior to MCDPS release of sediment and erosion control permit. Conditions of approval shall include treating the tree save area by:
 - a. Removal of Multiflora rose (*Rosa multiflora*) and other non-native invasive species,
 - b. Enrichment planting in gaps and open areas of stream and wetland buffers, and
 - c. Approval of a planting plan by MNCPPC prior to the release of sediment and erosion control permits.
2. A floodplain permit and a wetland permit are required for extending Decoverly Drive or for any other improvements across existing wetland and stream buffer areas.

Forest Conservation

The property contains 7.85 acres of forest consisting of upland hardwoods of Tulip Poplar (*Liriodendron tulipifera*) and bottomland hardwoods dominated by Black Locust (*Robinia pseudoacacia*), Black Cherry (*Prunus serotina*) and Red

Maple (*Acer rubrum*), in the stream valley buffers. There are 5 specimen trees and 10 significant trees onsite and several specimen trees immediately adjoining the property. Four of the site's specimen trees are in poor or fair condition. Most of the specimen and significant trees onsite are within the proposed conservation easement. The healthy significant and specimen trees located outside the proposed conservation easement should be evaluated in more detail at the time of preliminary subdivision review. Efforts shall be made, by regrading or shifting site elements, to minimize or mitigate significant impacts to the critical root zones of these trees.

A Preliminary Forest Conservation Plan has been submitted and reviewed by Environmental Planning staff. Of the 7.85 acres of forest on the property, 2.34 acres will be retained by the applicant in conformance with the requirements of Section 22A-12(f) of Forest Conservation Law. The development has an approved Natural Resources Inventory and Forest Stand Delineation (NRI/FSD). Total reforestation and afforestation required is 1.56 acres. In accordance with Section 22A-12(e) of the Forest Conservation Law, staff requires the applicant to meet this requirement onsite by treating the 2.34 acres of forest to be retained (a) removing Multiflora rose (*Rosa multiflora*) and other non-native invasive species, and (b) enrichment planting in gaps and open areas of stream and wetland buffers. A planting plan must be approved by M-NCPPC prior to the release of sediment and erosion control permits.

Stormwater Management

There are no highly erodible soils on the site. The site has been granted a Stormwater Management Waiver for water quantity because of its proximity to the regional stormwater management pond. This approved waiver specifies that water quality requirements must be met onsite, preferably with infiltration methods. The applicant will submit a stormwater management concept plan that must receive DPS approval prior to the Planning Board hearing on the preliminary plan of subdivision plan. Without a stormwater management concept at this time, it is unknown if and how all stormwater will be treated. The Stormwater Management and Sediment and Erosion Control plans must be approved by the Department of Permitting Services and be consistent with the Final Forest Conservation Plan.

Watershed Protection/Water Quality

The project area is served by public water and sewer services. In conjunction with prior plan approvals, the Department of the Environment has already issued a Water Quality Certification for the disturbance associated with the proposed (Master Planned) Decoverly Drive stream crossing. A wetland permit is now required for extending Decoverly Drive and for any other improvements across the existing wetland area.

The site drains to the Decoverly tributary of Muddy Branch in the Potomac River Watershed. The site is a tributary to the Key West regional stormwater management facility. This part of the Middle Potomac basin is designated as Class 1-P waters. The *Countywide Stream Protection Strategy (CSPS)* rates both stream and habitat conditions in the watershed as fair. Stream channels are incised and bank stability is poor. Sediment deposition and embeddedness problems have been observed in the mainstem. High levels of imperviousness and inadequate riparian buffers in the headwaters have affected streams in the watershed over time.

Wetlands

There are five wetlands totaling 1.6 acres, on the property. Of the five wetlands, four are classified as Palustrine Forested Wetlands and one is a Scrub-shrub Wetland. All wetlands onsite will be retained.

Environmental Guidelines

The proposed development will comply with the Environmental Guidelines.

Community Concerns – The staff has not received any comment from the surrounding community regarding this application.

Inherent and Non-inherent Adverse Effects

The Zoning Ordinance specifies a standard of review for evaluating compliance with general and specific conditions that requires an analysis of inherent and non-inherent adverse effects.

The first step in analyzing the inherent and non-inherent adverse effects of a special exception is to define the boundaries of the surrounding neighborhood. In this case, the neighborhood is defined as that area encompassed by Key West Avenue on the south, Omega Drive to the east, Great Seneca Highway on the west and the Crown Farm to the north. The surrounding neighborhood includes a variety of commercial uses, residential development and undeveloped farmland.

Analysis of inherent and non-inherent adverse effects considers size, scale, scope, light, noise, traffic and environment. It is understood that every special exception has some or all of these effects in varying degrees. What must be determined during the course of review is where these effects are acceptable or would create adverse impacts sufficient to result in denial. To that end, inherent adverse effects associated with the use must be determined. In addition, non-inherent effects must be determined as these effects may, by themselves, or in conjunction with inherent effects, form a sufficient basis to deny a special exception.

The inherent adverse effects associated with residential dwellings include parking facilities, recreational facilities, pedestrian linkages, and lighting. The staff finds that the physical and operational characteristics of the proposed use are no different than what is typically encountered with residential dwellings. The proposed buildings are laid out to create internal pedestrian open spaces and visual links to off site open spaces. The green spaces are located away from parking lots thus enhancing their desirability. The open spaces are integral with the building locations so they are placed for maximum advantage to the residents and help to create a presence for each building.

The preserved natural areas will create a significant part of the attractiveness of the setting for the entire development. The vehicular circulation is continuous for each section and allows for turn around within the parking facilities and well distributed parking space access to each building area. The locations of the entry drives are well separated for easier traffic flow onto Decoverly Drive. The pedestrian linkages are also continuous and are made directly to the adjacent streets from pedestrian areas within the site. Proposed lighting sufficiently addresses safety and will not have any adverse impacts on surrounding properties. There are no non-inherent adverse effects that warrant denial of the special exception.

General and Specific Special Exception Provisions

The staff has reviewed the petition for compliance with the applicable special exception provisions. As noted in the attachment, all of the general and specific requirements for residential dwellings found in Sections 59-G-1.21 and 59-G-2.36.2 of the Zoning Ordinance are satisfied.

Conclusion

The staff recommends approval of the special exception with the conditions found at the beginning of the staff report.

Attachments

Montgomery County Zoning Ordinance

59-G-1.21. General conditions.

(a) A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

(1) Is a permissible special exception in the zone.

The subject property is zoned O-M. Residential dwellings are an allowed special exception in the O-M Zone.

(2) Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.

The special exception will satisfy all of the standards and requirements set forth for the use in Section 59-G-2.36.2 of the Zoning Ordinance.

(3) Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in a master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.

The special exception will be in conformance with the recommendations of the 1990 Shady Grove Study Area Master Plan. While the Master Plan's land use map indicates offices for this site, the Zoning Ordinance permits residential dwellings in the O-M zone by special exception if certain standards are met, including compatibility with surrounding development. Staff finds that housing is compatible at this site, with both the surrounding development as well as future development planned for the surrounding neighborhood. Additional housing is needed in this area to balance the jobs that are available at the Life Sciences

Center and provide residential options in close proximity to this employment and education center. The provision of productivity housing is also a benefit in this area.

- (4) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.

The use will be in harmony with the general character of the neighborhood considering these criteria. The design, scale, and bulk of the proposed buildings will be architecturally consistent with the neighborhood. The layout of the buildings and parking areas will enhance the compatibility of the project with the area and the preserved natural areas, landscaping and parking areas provide sufficient buffering. The traffic generated by the use can be adequately accommodated by the existing and proposed roadway network. The proposed parking of 274 spaces exceeds the number of spaces required.

- (5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The use will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood, irrespective of any adverse effects the use might have elsewhere in the zone. The impacts from the use are inherent.

- (6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The use will not cause any objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity at the subject site, irrespective of any adverse effects the use might have elsewhere in the zone. The residential nature of the use will fit harmoniously within the context of the surrounding residential and commercial developments. The lighting plan shows the lighting levels of the proposed lighting on the property. This lighting sufficiently addresses safety and will not have any adverse impacts on surrounding properties.

- (7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.

The neighborhood contains a variety of commercial uses, residential development and undeveloped farmland. The use will not, when evaluated in conjunction with other special exceptions in the neighborhood, affect the area adversely or alter its character. The residential nature of the project will complement and enhance the residential nature of the nearby residential area.

- (8) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.

The use will have no such effect on the area irrespective of any adverse effects it might have if established elsewhere in the zone. The project will enhance the welfare of workers and residents in the area by increasing the variety of housing options near employment centers. This in turn will help to ease traffic congestion and reduce commute times.

- (9) Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.

- (i) If the special exception use requires approval of a preliminary plan of subdivision the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception. If the special exception does not require approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Board of Appeals when the special exception is considered. The adequacy of public facilities review must include the Local Area Transportation Review and the Policy Area Transportation Review, as required in the applicable Annual Growth Policy.

The special exception will require approval of an amended preliminary plan of subdivision. The adequacy of public facilities will be determined at that time.

- (ii) With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will not reduce the safety of vehicular or pedestrian traffic.

There is no evidence that the use will reduce the safety of vehicular or pedestrian traffic. Access points are deemed to be safe and efficient.

Sec. 59-G-2.36.2. Dwellings.

- (a) Dwellings in a commercial or industrial district must be compatible with existing or planned development on the same lot or tract and be compatible with the surrounding area. Dwellings developed in a commercial or industrial district may be combined with proposed or existing office, retail or industrial development or may be developed in lieu of non-residential development, provided there remains adequate land zoned for such development to serve the immediate neighborhood.

The use is a mixed-income residential that will provide attractive, convenient and affordable housing in close proximity to nearby employment and commercial centers. The use will complement and enliven the commercial uses in the surrounding area. The project proposes a residential density that conforms to the applicable standards of the zone. The development will be in lieu of non-resident development. There remains adequate land zoned commercial and industrial to serve the immediate neighborhood.

- (b) Dwellings in a commercial or industrial district are subject to the following standards:
 - (1) Not more than twenty-five percent (25%) of the land which is either zoned or recommended for commercial or industrial zoning in the applicable approved and adopted master plan may be used for housing.

The use is the only residential project on commercial or industrial zoned land in the master plan area and represents less than 25% of that zoning.

- (2) Dwellings in a commercial or industrial district must meet the development standards of the applicable zone concerning minimum setbacks, green area, and lot coverage. The base residential density is 6.0 units per acre, which may be increased up to 21.5 units per acre if at least 35 percent of the units are productivity housing for households with incomes at and below the area wide median income, as provided for in Chapter 25B, Article IV, of the County Code. The maximum height allowed in the applicable commercial zone may be adjusted not to exceed a total height of 50' to accommodate residential development above a commercial structure as authorized under Sec. 59-G-1.23. These standards apply to all buildings on a site, including those that contain housing. The required green area may be adjusted to assure compatibility of uses, or to accommodate housing if not otherwise feasible or appropriate.

The use will conform to all of the applicable standards for the O-M Zone including setbacks, green area, and lot coverage. The special exception will provide 35% of its housing units for incomes at and below 75% of the area-wide median income level pursuant to Section 25B-17(j) of the County Code and Executive Regulation 19-98. Accordingly, the proposed density of 18.1 dwelling units per acre is allowed. The proposed building height will not exceed 50 feet. The use will provide a 30-foot setback from Diamondback Drive and 135 feet from Decoverly Drive (85 feet from the future 50 foot transit right of way). Green area provided across the entire site is over 64 percent. Lot coverage is less than 15%.

- (3) Access must be provided by one or more direct driveways to a public street. The entrance must be located and appropriately lighted to assure safe access for residents, whether or not commercial or industrial uses on the same lot are in operation.

Two access points for the property are proposed. The entrances are located on Decoverly Drive and will be lit with 12-foot light poles.

- (4) A minimum of one (1) on-site parking space per dwelling unit must be provided. Additional parking spaces must be provided up to the total required by the relevant standards of Section 59-E-3.7, except that the Board may approve shared parking in accordance with the provisions of Section 59-E-3.1 to accommodate these additional spaces.

Parking ratios are based on the number of bedrooms in the units. At the required ratio of 1.25 spaces for a one-bedroom unit and 1.5

spaces for a two-bedroom unit, a total of 268 parking spaces are required. The use will provide a total of 274 parking spaces, which meets the requirements of Section 59-E-3.1 of the Zoning Ordinance.

- (5) The property must be located in an area served by public water and sewer and must be in water and sewer categories 1, 2, or 3.

The subject property is served by public water and sewer and is in Water Category 3 and Sewer Category 3.

(c) Design plan.

- (1) In addition to submitting such other information as may be required, a design plan of proposed development must also be submitted at the time the application is made. The design plan must show the size and shape of the subject property, the location of all buildings and structures, the area devoted to parking, any recreation facilities to be provided, all access roads and drives, the topography and existing major vegetation features, the proposed grading, landscaping and screening plans and such other features necessary for the evaluation of the plan.

Such a design plan of proposed development has been provided.

- (2) No special exception, building permit or certificate of occupancy may be granted or issued except in accordance with a design plan of development approved by the Board of Appeals. The Board may condition its approval of a design plan on such amendments as determined necessary to assure an internally compatible development which will have no adverse effect on the surrounding community.