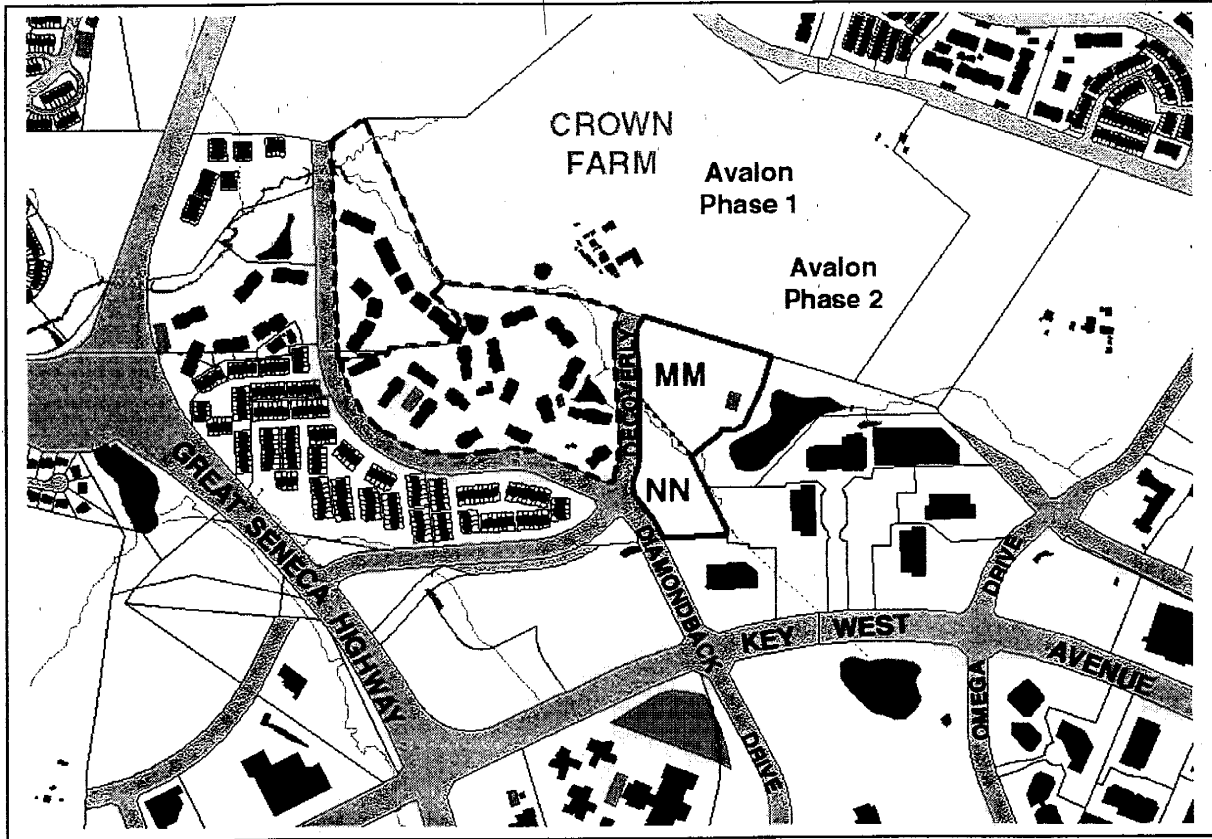


PROJECT DESCRIPTION: Prior Approvals

Prior approvals for the subject property (Parcel MM and Parcel NN) include various sequential approvals, including Preliminary and Site Plan approvals dating from the 1980's with the development of the Life Sciences Campus to the present. Master Plan recommendations for the properties have included single family house, as per the R-60 zoning of the 1970-80's to moderate office intensity, as envisioned with the re-zoning to O-M Zone



The above plan shows surrounding development: Residential Communities, including Shady Grove Gables Apartments (Avalon Phase 1); Key West Condominiums to the west of Phase 1, and the townhouse community to the south of Phase 1; Decoverly Hall Office Park lies to the east of Parcels MM and NN; Crown Farm remains undeveloped.

Special Exception S-2597, June 23, 2004 [Parcels MM and NN]

The Special Exception constitutes the most recent approval for this property, per the Board of Appeals Opinion, dated June 23, 2004. The proposal was presented to the Planning Board on March 11, 2004. Avalon Bay Communities sought the approval to permit the construction of 196 residential dwelling units located on Parcels MM and NN. The Zoning Ordinance permits residential dwellings in the O-M Zone by special exception. The applicant's proposal for Special Exception was approved with conditions, including the requirement for 35% Productivity Housing Units.

Zoning Map Amendment, G-577, March 1, 1988

The District Council, per Resolution 11-697, adopted March 1, 1988, approved the reclassification of Parcel NN (4.47 acres known as the Ostwald Property and the Whipp Property) from the R-60 Zone to the O-M Zone.

ANALYSIS: Conformance to Development Standards

Avalon at Decoverly Phase 2 Site Plan 8-05002		O-M Zone	
Development Standard	Total Areas	Permitted/Reqd	Proposed
Gross/Net Site Area	10.81 acres		
Gross/Net Site Area Parcel MM	6.86 acres [299,055 sf]		
Gross/Net Site Area Parcel NN	3.95 acres [171,794 sf]		
Dedication Decoverly Drive	Previous Dedication		
Dedication Diamondback Dr.	Previous Dedication		
Reservation for Future Dedication	Corridor Cities Transit		1.1 Acres
Density			
Base Density		6.0 units/acre max	18.1 units/acre ¹
Total Allowable Density/Acre ²		21.5 units/acre ³ max	18.1 units/acre ¹
Total Residential Units		232 units	196 units ¹
Total Productivity Housing Units		35% (69 units) min	35% (69 units)
Floor Area [59-C-4.312]		1.5 FAR max	0.08
Parcel MM			
Bldg Coverage Parcel MM		60% max (179,433 sf)	16% (48,000 sf)
Residential Parcel MM		148 units	168 units
Residential Parcel MM		21.5 units/acre	24.49 units/acre ²
Parcel NN			
Bldg Coverage Parcel NN		60% max (103,076 sf)	6% (9,400 sf)
Residential Parcel NN		83 units	28 units
Residential Parcel NN		21.5 units/acre	7.09 units/acre ²
Building Limits [59-C-4.311]			
Building Height		5 stories, (60 feet) max	5 stories (60 feet) max
Model 4 stories		60 feet max	42' midpoint, 52' ridge
Model 5 stories		60 feet max	50' midpoint, 60' ridge
Green Area 59-C-10.3.3			
Category I Conservation Easement		N/A	2.2 acres
Wetlands		N/A	1.6 acres
Green Space Parcel MM		10% (29,906 sf) min	54.8% (163,770 sf)
Stream Valley Parcel MM		N/A	0.9 acres
Parking Green Space MM		5% (3,996 sf)	9.1% (7,285 sf)
Green Space Parcel NN		10% (17,180 sf) min	80.7% (138,575 sf)
Stream Valley Parcel NN		N/A	2.2 acres
Parking Green Space NN		5% (956 sf)	14.7% (2,800 sf)
Setbacks			
Street ROW on Master Plan	Diamondback Drive	15 feet min	30 feet min
Street ROW on Master Plan	Decoverly Drive	15 feet min	33 feet min
Any other lot line (garages)	(Crown Farm)	1' per 3' bldg ht ⁴ [5 ft]	12 feet min
Residential Zone (3-4 story bldgs.)	(Crown Farm)	1' per 3' bldg ht ⁵ [18-20 ft]	20 feet min
Corridor City Transit ROW	(Decoverly Drive)	No Setback Required	8 feet min
¹ Per Opinion of the Board of Appeals, S-2597, dated June 24, 2004, development with 35% units provided as Productivity Housing Units may achieve a maximum density of 21.5 units/acre.			
² The Board of Appeals, per its Opinion S-2597 dated June 23, 2004, grants the Special Exception based on the average density for the entire development, comprised of Parcel MM and Parcel NN.			
³ M-NCPPC Staff Memorandum, dated March 5, 2004, re: Special Exception S-2597, page 15, reference Chapter 25B, Article IV Montgomery County Code (Productivity Housing).			
⁴ Per § 59-C-1.313 (b)(1) Applicable setback if the building has windows or apertures providing light, access, or ventilation to a space intended to be occupied for commercial or residential purposes that face that lot line.			
⁵ Per § 59-C-1.313 (b)(2) Applicable setback if the adjoining lot in in a residential zone and is not recommended for commercial or industrial zoning on a master plan.			

Parking Distribution - Phase 2		Site Plan 8-05002	
Development Phase	Parking ratio	Required spaces	Proposed spaces
<u>Parcel MM- residential</u>			
1 Bedroom	92 units @ 1.25 space/unit	115 spaces	
2 Bedroom	76 units @ 1.50space/unit	114 spaces	
Parcel MM - residential parking		229 spaces	230 spaces
<u>Parcel NN- residential</u>			
1 Bedroom	14 units @ 1.25 space/unit	18 spaces	
2 Bedroom	14 units @ 1.50 space/unit	21 Spaces	
Parcel NN - residential parking		39 spaces	44 spaces
Total auto parking spaces		268 spaces	274 spaces
Compact Spaces (Not included in total auto parking spaces listed above)			53 spaces
Garage Spaces (Included in total auto parking spaces listed above)			20 spaces
<u>Bicycle Parking</u>			
Parcel MM		14 spaces	21 spaces
Parcel NN		3 spaces	5 spaces
<u>Motorcycle Parking</u>			
Parcel MM		6 spaces	6 spaces
Parcel NN		2 spaces	2 spaces

RECREATION ANALYSIS							
Avalon at Decoverly (Avalon Phase 2)							
<u>DEMAND POINTS</u>		<u>Tots</u>	<u>Children</u>	<u>Teens</u>	<u>Adults</u>	<u>Seniors</u>	<u>TOTALS</u>
House type		11.00	14.00	12.00	118.00	16.00	171.00
PROJECT DEMAND							
196 Garden Apt Units	1.96	21.56	27.44	23.52	231.28	31.36	335.16
<u>SUPPLY POINTS - ON SITE</u>		<u>Tots</u>	<u>Children</u>	<u>Teens</u>	<u>Adults</u>	<u>Seniors</u>	
Picnic - Sitting (11)		11.00	11.00	16.50	55.00	22.00	
Pedestrian System		2.16	5.49	4.70	104.08	14.11	
Natural Area		0.00	1.40	2.40	23.10	1.60	
Tennis Court		0.00	1.50	10.50	24.00	1.00	
Tot Lot		9.00	2.00	0.00	4.00	1.00	
Bike Path		0.05	0.10	0.15	0.15	0.10	
On Site Total		22.21	21.49	34.25	210.33	39.81	328.09
Percentage On Site		1.03	0.78	1.46	0.91	1.27	
<u>SUPPLY POINTS - OFF SITE</u>		<u>Tots</u>	<u>Children</u>	<u>Teens</u>	<u>Adults</u>	<u>Seniors</u>	
<i>Green Park, Gaithersburg</i>							
Tennis Court		0.00	1.50	10.50	24.00	1.00	
Open Play Area 1		2.10	3.15	4.20	10.50	0.70	
Tot Lots (2)		6.30	1.40	0.00	2.80	0.70	
1/2 Multi-Purpose Court		0.70	1.75	2.45	2.80	0.35	
Off Site Total		9.10	7.80	17.15	40.10	2.75	76.90
Percentage On Site		0.42	0.28	0.73	0.17	0.09	

ANALYSIS:

Affordable Housing

The proposed plan provides 69 Productivity Housing Units that constitute 35% of all dwelling units. Productivity Housing Units are reserved for households with incomes at or below 75% of the area-wide median income, as provided for in Chapter 25, Article IV of the Montgomery County Code and Executive Regulation 19-98.

The chart below shows the distribution of PHU apartment type by parcel location. The unit-type mix of the Productivity Housing Units (PHUs) matches the unit-type mix of the market rate rental apartments, and the PHUs are evenly distributed throughout the development.

Residential Unit Distribution and Productivity Housing Units			
Development Phase	Total units	PHUs Required	PHUs Proposed
<u>Parcel MM - residential</u>	<u>168 units</u>	<u>35% (59 units)</u>	<u>61 units</u>
1 Bedroom PHUs	92 units	35% (32 units)	37 units
<u>2 Bedroom PHUs</u>	<u>76 units</u>	<u>35% (27 units)</u>	24 units
<u>Parcel NN - residential</u>	<u>28 units</u>	<u>35% (10 units)</u>	<u>8 units</u>
1 Bedroom PHUs	14 units	35% (5 units)	0 units
<u>2 Bedroom PHUs</u>	<u>14 units</u>	<u>35% (5 units)</u>	<u>8 units</u>
Total units Parcels MM & NN:	196 units	35% (69 PHUs)	69 PHUs
Total Unit Mix:			PHU Mix
1 Bedroom Units total	106 units	*--	35% of 1-BR Units [37 PHUs]
2 Bedroom Units total	90 units	*--	35% of 2-BR Units [32 PHUs]

Conformance to Master Plan

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 or office use, attributable to the site O-M zoning for moderate intensity office building.

While the Master Plan indicates office-building use for this site, the Zoning Ordinance permits dwellings in the O-M Zone by special exception if certain standards are met, including compatibility with surrounding development. Staff review of the Special Exception Application S-2597, made the finding that housing is compatible for this site, with both the surrounding development as well as for future development anticipated for the Crown Farm site, which adjoins the property on the north. 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 Master Plan includes the Corridor Cities Transitway along Decoverly Drive and recommends 50 feet of right-of-way (ROW) for transitway use. The 50-foot ROW along the site frontage was required as a condition of approval for Preliminary Plan

Local Area Transportation Review

Three local intersections were identified as critical intersections to be affected by the development of the site and were examined in the traffic analysis for the Special Exception 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 below.

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	1,345	1,001	1,368	1,099	1,369	1,102
MD 28/Diamondback Drive	1,064	1,032	1,216	1,267	1,268	1,295
MD 119/Decoverly Drive	1,049	1,217	1,186	1,477	1,189	1,482

As shown in the above table, all existing intersections analyzed are currently operating at acceptable CLVs (standard equal to 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.

Forest Conservation

The site area of 10.81 acres (12.2 acres including the Corridor City Transitway Reservation Area) contains 7.85 acres of forest. The plan proposes to remove 5.69 acres of forest, while preserving all of the forest within the stream buffer except where the extension of Decoverly Drive is constructed. The Environmental Planning staff recommends a planting requirement of 1.9 acres to compensate for the removal of existing forest, to be placed within the stream valley buffer. Under the forest conservation law, the first priority for forest conservation planting is enhancement of existing forest through on-site selective clearing and supplemental planting.

FINDINGS: For Site Plan Review

1. *The Site Plan is consistent with an approved development plan or a project plan for the optional method of development if required.*

An approved development plan or a project plan is not required for the subject development. The plan is consistent with and conforms to the conditions of approval for Special Exception S-2597, granted by the Montgomery County Board of Appeals, Opinion dated June 23, 2004.

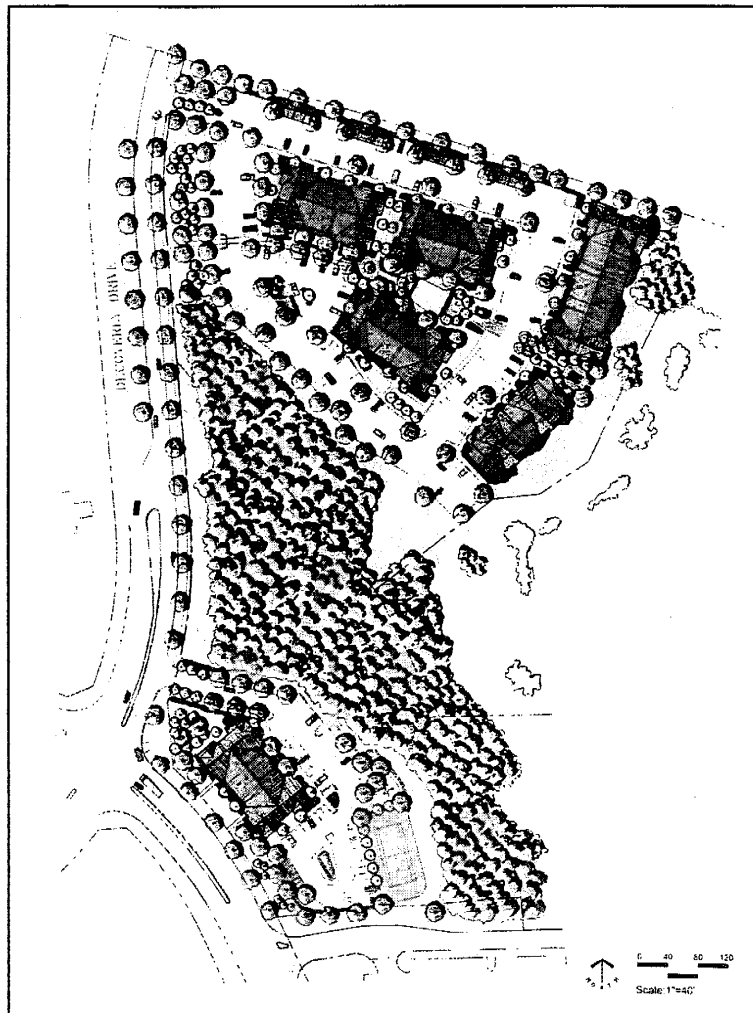
2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan meets all of the requirements of the O-M Zone as demonstrated in the project Data Table above.

3. *The location of the building and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.*

a. **Buildings**

The development clusters and building locations for the Avalon at Decoverly Site Plan are organized into two sections that correspond to the shape and topography of the site, and to the parcel delineation as well. This “bow-tie” shaped property logically distributes its primary density of five buildings within the northern “half” of the form (Parcel MM), while placing a single building within the smaller, southern parcel, which defines the street edge of Diamondback Drive. The conservation easement area forms the central “knot” of the bow tie.



The proposed plan incorporates five building plan-types that offer distinct advantages for the overall site plan:

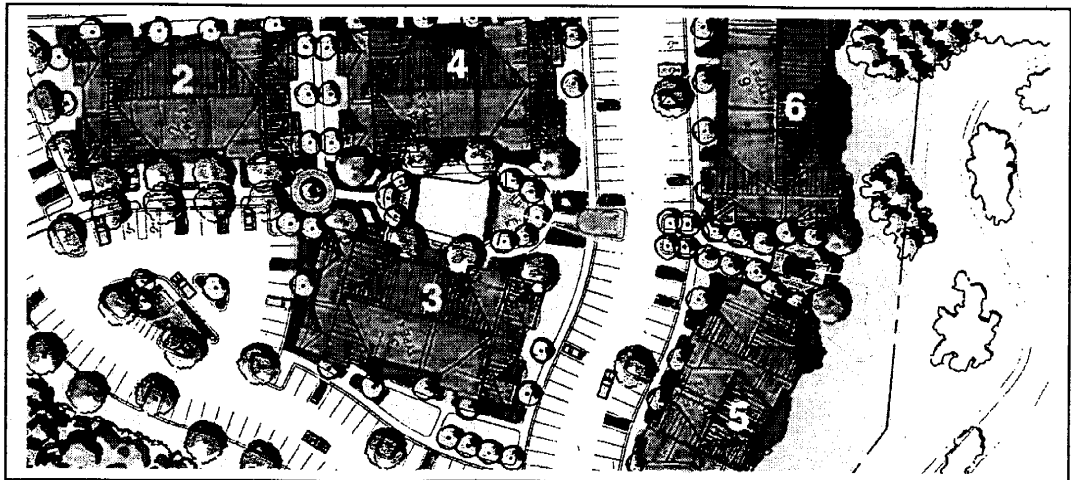
- The five different building types create variety in the scale and size of the buildings, and effectively distribute the functional program requirements of amenity space, pedestrian circulation and parking;
- The assortment of building types allow more varied combinations of apartment units, facilitating an even distribution of PHUs across the development and allowing significantly more two-bedroom PHUs;
- The buildings are customized per structure type to better accommodate the site's topography, optimizing the compatible building placement for attractive interior and exterior views;
- The varied building footprints and their placement offers more flexibility to the site plan to protect the stream valley buffers and wetlands areas;
- The site plan accommodates the Corridor Cities Transitway reservation and its future construction adjoining Decoverly Drive;

Within the northern parcel itself, the five buildings are oriented in two groups: a central cluster of three buildings (2,3,and 4) flanked by the Buildings 5 and 6, arranged in linear form along the rear stream buffer. The northern boundary is articulated by even the evenly spaced small garage structures and its accompanying line of shade trees. An efficient lead pedestrian walk, articulated by a double row of shade trees, provides a connection to the internal, formal green space. The view as well as the pedestrian connection extends from this oasis to the stream buffer by the well-articulated break between the flanking rear buildings.

b. Open Spaces

The plan proposed 6.94 acres of open space, or 64% percent of the property's area. The largest single area of green space is comprised of the 3.1-acre stream valley buffer occupies the center of the property. The stream valley and its forest stand forms the "heart" of this development's open space; preservation of these wetlands and forest will provide visual amenities for residents, bikers, pedestrians, and even drivers and future transit riders, with the generous views of this natural area offered from Decoverly Drive.

A formal open space for the northern parcel is provided as an elliptical grass panel bounded by sidewalks with garden areas at each end defined by special paving and picnic tables with seating. The space, aligned along a gentle "bending" axis generated from the main pedestrian walk, is extended visually, and physically, by its connection to its subordinate sister space across the vehicular driveway, finally terminating with the contrasting natural form of the stream valley forest.



Open space provided for Building 1 (Parcel NN) consists of informal seating and picnic areas in proximity to the stream buffer, in addition to tot lot and tennis court.

Formal open space, such as gardens, seating areas, and "street front" green areas are minimal in dimension and placement, sacrificed to the functional requirements for surface parking. The generous forest conservation area, however, serves to ameliorate this aspect of the plan, by providing generous, wide views of the stream buffer. It can be hoped that, perhaps, with the construction of the Transitway, the future need for surface parking in this location may be reduced.

The stormwater management concept consists of on-site channel protection and water quality measures for Decoverly Drive provided via a retrofit of the existing off-site Decoverly Pond. On-site water quality control is provided via structural sand filters and biofiltration facilities for parcels MM&NN, and, onsite recharge via specifically designed trenches. Channel protection volume is NOT required for parcels MM and NN because the one-year post developed peak discharge is less than 2 cfs.

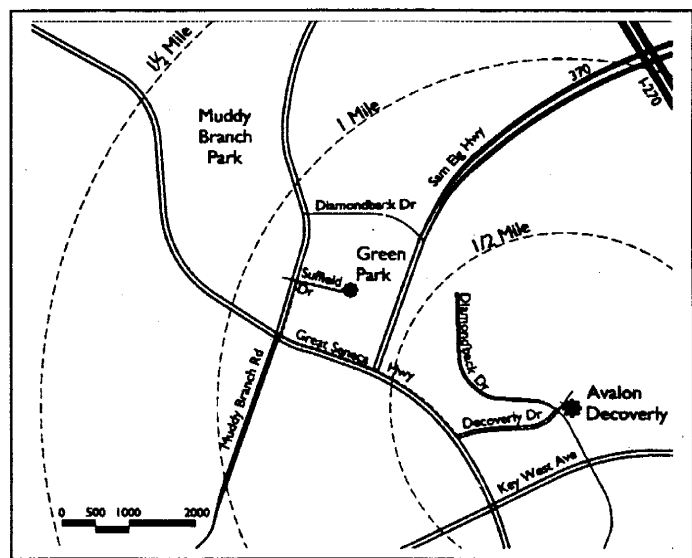
c. Landscaping and Lighting

Landscaping for the project includes a comprehensive, varied streetscape design including sidewalks, street trees and lighting, that effectively integrates the internal streets and parking areas. Landscaping within the open spaces includes flowering trees for accents; and detailed shrub beds within the green spaces. Seating areas are well placed throughout the site to encourage views and greater contact with the landscaped areas. Foundation plantings are provided for each unit that will increase the attractiveness of the view from the street as well as of each unit. The landscaping is designed to create attractive views that promoting adequate, safe, and efficient pedestrian passage through the site and use of the amenity areas.

Within the private drives, the applicant has included landscaping islands and added planting where possible and feasible to soften the views of the paving. Substantial screening is provided along the common boundary shared with Decoverly Office Park at Parcel NN. The lighting proposed include 12-foot high "acorn-type" fixtures that will create a refined streetscape, encourage pedestrian activity, and enhance safe and efficient pedestrian activity.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table above. The recreation provided meets the requirements for on-site facilities. Recreation facilities for the development include the following: tennis court, sitting areas, pedestrian system, natural area, bike path, and tot lot. The development provides a variety of passive and active recreation types, all of which are conveniently located with safe and adequate pedestrian access. The new bike path/sidewalk along Decoverly Drive links the two Parcels, MM and NN, providing safe and efficient connections.



Green Park, located in Gaithersburg, provides attractive, off site public recreation facilities, including tennis courts, tot lots, picnic areas, open play areas, and a multi-purpose court. The park is located within 1.1 miles of Avalon at Decoverly, accessible on foot or by car.

e. Vehicular and Pedestrian Circulation

Vehicular access is provided via two access points, one for each land parcel, from Decoverly Drive. Each parcel features a loop driveway pattern to facilitate pick-up/drop off and turns. [See discussion: *PROPOSAL, Vehicular Circulation*, page 10.]

An eight-foot-wide shared use path (Class I bikeway) along Decoverly Drive provides public pedestrian access to the development. An extensive internal sidewalks network will also be provided to facilitate pedestrian circulation throughout the development. [See discussion: *PROPOSAL, Pedestrian Access*, page 10.]

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

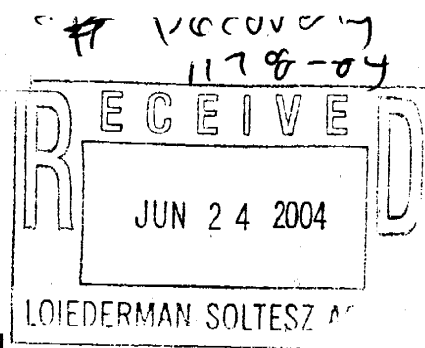
The units are compatible in their type of use, scale and density to the residential and uses that exist to the west and with the Decoverly Office Park to the east and south. The building locations provide adequate setbacks and compatible orientations to the surrounding development patterns, particularly the Avalon Housing Development across Decoverly Drive. The buildings themselves are carefully placed to provide compatible relationships between the housing structures and create usable, attractive open space. In addition, the thoughtful placement of the core housing blocks demonstrates consideration of compatible relationships between the housing structures, the open spaces, and the units themselves.

The activity associated with the proposed residential uses will not cause any negative effect on the surrounding residential and commercial uses.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation.*
A final forest conservation plan has been prepared for the entire tract. The site plan meets the requirements of Chapter 22A

APPENDIX

- A. Memo from Shariar Etamadi, MNCPPC Transportation Planning, October 22, 2004
- B. Memo from Mark Pfefferly, MNCPPC Environmental Planning, October 12, 2004
- C. Letter from Richard R. Brush, Montgomery County Department of Permitting Services, July 19, 2004
- D. Letter from Daniel Sachs, Housing Opportunities Commission, September 7, 2004
- E. Letter from Jeffrey Riese, Montgomery County Department of Public Works and Transportation, dated September 20, 2004
- F. Letter from Mary Beth O'Quinn, MNCPPC Development review to Robin Fenton, dated September 1, 2004
- G. Opinion of the Montgomery County Board of Appeals, Special Exception S-2597, dated June 23, 2004
- H. Site Plan Opinions, 8-88015A, *Decoverly Hall*, dated November 24, 1998; 8-90017A, *Decoverly Building 8*, dated August 14, 1990
- I. Preliminary Plan Opinions, 1-88264, *Decoverly Hall*, dated June 29, 1989; 1-85245, *Decoverly Hall Parcel S*, dated December 10, 1986.



**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
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www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2597

PETITION OF AVALON BAY COMMUNITIES, INC.

OPINION OF THE BOARD

(Effective Date of Opinion: June 23, 2004)

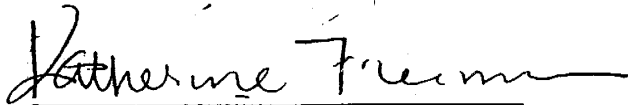
Case No. S-2597 is an application for a special exception pursuant to Section 59-G-2.36.2 (dwellings in a commercial or industrial district) of the Zoning Ordinance to permit the development of 106 one bedroom apartment homes; 90 two bedroom apartment homes, 274 parking spaces, and recreational facilities on 10.8 acres of property. Pursuant to the provisions of Section 59-A-4.125 of the Zoning Ordinance, the Board of Appeals referred the case to the Hearing Examiner for Montgomery County to conduct a public hearing and submit a written report and recommendation to the Board for final action. The Hearing Examiner convened a public hearing on March 19, 2004, the record in the case closed on March 31, 2004, and on May 4, 2004, the Hearing Examiner issued a report and recommendation for approval of the special exception.

Decision of the Board: Special Exception granted subject to conditions enumerated below.

The Board of Appeals considered the Hearing Examiner's report and recommendation at its Worksession on June 9, 2004. After careful consideration and review of the record in the case, the Board adopts the report and recommendation and grants the special exception, subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of the Petitioner's witnesses and representations of counsel identified in this report, including the Design Plan and Landscape Plan, Exhibits 28 (a) through (d).
2. The special exception must be limited to a total of 196 units, including 35 percent productivity housing units.
3. The Petitioner must obtain approval of an amended preliminary plan of subdivision and site plan from the Planning Board prior to the release of any building permit.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 23rd day of June, 2004.



Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit for a Special Exception.