

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION


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**MCPB
ITEM #
1/12/06**

MEMORANDUM

DATE: January 2, 2005

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief
Catherine Conlon, Subdivision Supervisor 
Development Review Division

FROM: Richard A. Weaver, Coordinator (301) 495-4544 
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision for 4 single-family detached residential units

APPLYING FOR: Preliminary Plan Review and Final Water Quality Plan

PROJECT NAME: Jacot Property

CASE NO. 120060340 (formerly 1-06034)

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

ZONE: RE-1 (cluster option)

LOCATION: Located on Thompson Road approximately 950 feet west of Peach Orchard Road

MASTER PLAN: Cloverly

APPLICANT: Dunhill Development, LLC

ENGINEER: Apex Engineering

DATE FILED: September 12, 2005

HEARING DATE: January 5, 2006



Staff Recommendation: Approval, including a waiver of the minimum area of development pursuant to Section 59-C-1.532 of the Zoning Ordinance, and subject to the following conditions:

- 1) Approval under this preliminary plan application is limited to four (4) single-family detached residential dwelling units.
- 2) Per the Maryland State Highway Administration (SHA) letter dated November 3, 2005 and the November 2004 *Draft Environmental Impact Statement (DEIS)* for the proposed Intercounty Connector (ICC), place the entire property in reservation until the earlier of (a) February 1, 2006; or (b) a final Record of Decision is issued by the FHWA for the ICC, provided that Record of Decision does not include the property or any portions thereof within the final ICC alignment.
- 3) Consistent with the 1997 Approved and Adopted *Cloverly Master Plan*, applicant to a revise the final preliminary plan, prior to signature, to show dedication of right-of-way along Spencerville Road to provide 60 feet from the roadway centerline.
- 4) Per SHA letters dated November 3, 2005, and December 16, 2005, place in reservation property frontage area along Spencerville Road as shown on Attachment 3 ("Reservation Area") for three years starting from July 1, 2006.
- 5) The applicant shall locate all site improvements outside of the Reservation Area until the Spencerville Road reservation requirement (per Condition No. 4 above) is exhausted.
- 6) At least 90 days prior to the submission of any building and/or construction permit for the subject development, the applicant shall provide certified written notice to SHA, Engineering Access Permits, Division Office of Highway Development stating applicant's intent to proceed with the proposed development on the property. The applicant shall concurrently send a copy of this letter to M-NCPPC, c/o Chief, Transportation Planning.
- 7) Any contract of sale between the applicant and any prospective buyer of all or part of the subdivision must (a) advise the buyer in writing of the requirements in place on the subdivision per above conditions 2 through 6; and (b) advise the buyer to contact SHA and/or M-NCPPC Transportation Planning staff for current information on potential ICC and/or Spencerville Road alignments in the area. This notification requirement is binding on the applicant's heirs, successors and/or assigns.
- 8) Staff recommends approval of the Special Protection Area (SPA) preliminary and final water quality plan conditioned upon the applicant entering into an agreement with the Planning Board prior to recordation of plat that limits impervious surfaces to no more than 9.7 percent.

- 9) Prior to release of building permits, applicant to demonstrate conformance to impervious surface limits as shown on the preliminary plan. Any modifications to this plan that increases site imperviousness will require Planning Board action.
- 10) Record plat must set a minimum 35-foot building restriction line from the Category I conservation easement boundary on Lots 1, 2, and 3.
- 11) Category I conservation easement to be placed over forest retention areas on proposed Lots 1, 2, and 3 and the segment of the WSSC sewer easement that lies between the forest retention areas. Conservation easement to be shown on record plat.
- 12) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s), as appropriate. Conditions include, but are not limited to, the following:
 - A survey and critical root zone analysis of trees 10 inches and greater in diameter at breast height within 50 feet on either side of the limits of disturbance to be submitted for review and approval as part of the final forest conservation plan.
 - Sewer easement located between the forest retention areas to be replanted with native shrubs and/or small trees. Planting plan and schedule to be shown on the final forest conservation plan.
 - Details of split rail fence that will be located along the conservation easement boundary within Lots 1, 2, and 3 to be submitted to staff for review and approval.
- 13) The applicant shall comply with the following conditions of approval from M-NCPPC Environmental Planning staff to attenuate noise from Rte. 198:
 - Prior to release of record plat, applicant must provide and commit to implement a detailed traffic noise impact and abatement study prepared by a professional engineer with competency in acoustical analysis. The study shall provide recommendations for appropriate outdoor and interior noise mitigation for those lots that are determined to be adversely affected by projected traffic noise from Rte. 198.
 - Binding commitment from the builder to construct noise mitigation measures in accordance with recommendations of the noise study and with the acoustical specifications as identified by the acoustical professional. Any subsequent changes in building materials (e.g., doors, windows, skylights) or coverage that may affect acoustical performance shall be approved by an acoustical engineer prior to approval of building permit for the unit(s).
- 14) Compliance with the MCDPS conditions of approval of the Preliminary Water Quality Plan and stormwater management concept per letter dated, November 8, 2005.

- 15) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 16) Record plat to have the following note: "The land contained hereon is within an approved cluster development and that subdivision or resubdivision is not permitted after the property is developed."
- 17) Access and improvements as required to be approved by MDSHA prior to issuance of access permit(s).
- 18) Other necessary easements.

SITE DESCRIPTION

The 4.33-acre property is located on the south side of Spencerville Road (MD 198) approximately 700 feet west of Good Hope Road in Cloverly (Attachment 1). The property is zoned RE-1 and has been previously used as a single family residence. The site lies within the Upper Paint Branch Special Protection Area (SPA). Paint Branch and its tributaries upstream of I-495 are Use III streams (natural trout waters)¹. The site drains to a tributary of the Left Fork of Paint Branch. About 2.7 acres of forest exist on the site. The forest includes many large and specimen trees. There are no streams, wetlands, floodplains, or environmental buffers on the site.

PROJECT DESCRIPTION

The proposed Preliminary Plan contains four single-family detached residential dwelling units clustered on the northern portion of the site and served by a shared private driveway. (Attachment 2) The proposed lot sizes range from 23,195 square feet to 69,220 square feet. The lots are clustered to provide a forest save area in the rear of two lots.

MASTER PLAN COMPLIANCE

Extension of sewer service to the RE-1 Zone in the Upper Pant Branch

The Cloverly Master Plan provides specific guidance on the extension of sewer service to the Upper Paint Branch portion of the planning area. Not only must the Montgomery County Department of Environmental Protection make a finding that individual sewer line extensions for new development are logical, economical, and environmentally acceptable, the Planning Board, through the review and approval of the preliminary plan, must make a determination that the use of sewer provides for an environmentally superior plan when compared to a septic layout. It has been shown as part of staff's review that the use of sewer allows a tighter clustering of lots which allows much greater tree save. The section below on the justification of cluster gives the details

¹ Paint Branch supports a naturally –reproducing brown trout population. This stream system is a unique resource for Montgomery County because it is the only stream system in the county with a proven, consistent long-term self-sustaining trout population.

of the tree save numbers. The additional forest clearing required to lay out the house locations in order to use individual septic systems would result in even greater tree loss than a standard method sewer plan due to clearing required for the septic drain fields. Staff believes that the use of sewer will result in an environmentally superior plan because of additional tree save that can be achieved. Clustering also has the benefit of requiring less pavement to serve the units that results in less imperviousness; a water quality goal in this watershed.

Waiver of the minimum development area

Section 59-C-1.532 of the zoning ordinance establishes 50 acres as the minimum size of a site for a cluster development in the RE-1 zone. However, footnote 6 of this section of the zoning ordinance states: "This minimum area requirement may be waived by the planning board upon a finding that the cluster development is more desirable for environmental reasons."

The applicant has submitted a request to waive the minimum area requirement for cluster. In addition, a concept of a non-cluster subdivision was also submitted to compare to the proposed cluster subdivision. The applicant identifies two reasons why he believes the cluster is environmentally better:

- The subdivision imperviousness is lower for the cluster layout (9.6%) than for the standard layout (9.9%).
- More forest is retained in the cluster layout (1.61 acres) than in the standard layout (0.91 acre).

Although the imperviousness in the cluster layout is smaller than that in the standard layout, the difference is small (only about 460 square feet). Staff does not believe the imperviousness difference is a major feature that justifies the use of the cluster option for this application. However, staff believes the cluster layout is environmentally better than the standard layout because of the larger amount of forest retained in the cluster subdivision. About 0.71 acre more forest is retained and protected in the cluster layout than in the standard layout. More than half of the existing forest may be protected by the cluster, compared to only one-third of the forest that could be protected in a standard layout. In addition, the configuration of the clustered lots are such that the proposed houses on Lots 2 and 3 will be about 35 feet or more from the forest retention areas. Staff believes this will allow for adequate usable yard space for the two lots.

TRANSPORTATION

Site Location and Access

The site is located along the south side of Spencerville Road approximately 750 feet west of its intersection with Good Hope Road. It has access to Spencerville Road, which is currently a two-lane major highway. Land use in the vicinity of the site is primarily residential. The Korean Spencerville Seventh-Day Adventist Church and Academy is located immediately to the east of the property. Metrobus route Z3 serve Spencerville Road in the area.

Proposed Intercounty Connector

The Intercounty Connector is proposed as a limited-access east-west highway intended to link areas between I-270 to the west and I-95/US 1 to the east, through central/eastern Montgomery and western Prince George's Counties. At present, the ICC planning process has concurrence on two alternative alignments called Corridor 1 and Corridor 2. Corridor 1 generally follows an alignment that is incorporated in area master plans, while Corridor 2, to the east of Georgia Avenue (MD 97), follows an alignment to the north of Corridor 1 that is not represented in any area master plans. Information available in the *DEIS*, which was presented as Attachment No. 2, indicated the extent of the physical impact of the non-master planned Corridor 2 alignment on the property.

Currently, the ICC planning process is moving forward with the State's recently announced selection of Corridor 1 as its preferred alternative for construction. SHA will further analyze the selected alignments and will submit a *Final Environmental Impact Statement (FEIS)* to the FHWA. After reviewing the *FEIS*, FHWA will make a final determination on the project in a Record of Decision, which at the present time is expected to occur in early 2006.

Other On-going Transportation Projects

SHA's Consolidated Transportation Program (CTP) includes the *MD 28/MD 198 Corridor Improvement Planning Study* along the property frontage, which is currently funded for project planning only. SHA has indicated that under a Section 4(f) resource avoidance (the Drayton and Edgewood historic resources to the north of the property; see Attachment No. 4) alignment option, as illustrated in Attachment 3, Spencerville Road may require additional right-of-way from the property. Additionally, the environmental document is expected to identify a potential stormwater management pond on the subject property. Typically, stormwater management facilities are not determined during the project planning process, but rather during the subsequent design process. Staff therefore does not recommend dedication or reservation on the property to protect the potential stormwater management pond, but rather recommends continued coordination between the applicant and the SHA during the MD 28/MD 198 project design phase. Currently, SHA does not have an announced date for the release of the *DEIS* for the project.

Master Plan Roadway and Pedestrian/Bikeway Facilities

The 1997 Approved and Adopted *Cloverly Master Plan* describes master-planned Spencerville Road (to the north of the site), as a four-lane Major Highway (M-76) with a minimum right-of-way of 120 feet to the west of Thompson Road to New Hampshire Avenue. A Class I bikeway (PB-34) is recommended in the master plan for this roadway.

Local Area Transportation Review

The subject Preliminary Plan, consisting of four single-family detached units, will generate less than 30 total peak hour trips during the weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods (four total peak hour trips during both the morning and

evening peak-hours). Therefore, a traffic study (to analyze traffic impact at nearby intersections) is not required of this development to satisfy Local Area Transportation Review.

ENVIRONMENTAL

Review for Conformance to the Special Protection Area Requirements, Including the Environmental Overlay Zone

As part of the requirements of the Special Protection Area law, a preliminary and final water quality plan must be reviewed in conjunction with a preliminary subdivision plan². Under the provision of the law, the Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of a water quality plan. DPS reviews and acts on those elements of the water quality plan that relate to water quality protection performance goals, stormwater management, sediment and erosion control, and monitoring of best management practices. **DPS has reviewed and approved the elements of the preliminary water quality plan under its purview (see Attachment A).** The Planning Board's responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Site Performance Goals

As part of the preliminary and final water quality plan, several performance goals were established for the site: minimize stormwater runoff, provide redundant sediment control, and promote groundwater recharge

Site Imperviousness

The Upper Paint Branch SPA has a ten percent (10%) site imperviousness limit on land development projects. The imperviousness limit is set forth in the Environmental Overlay Zone for the Upper Paint Branch SPA. The water quality plan proposes a site imperviousness of 9.7 percent. This consists of four new single-family detached houses and a common driveway. The proposed subdivision meets the imperviousness limit of the Environmental Overlay Zone.

Environmental Buffers

There are no environmental buffers on the site.

Forest Conservation

The applicant proposes to retain about a total of 1.82 acres of the 2.7 acres of forest in two areas. The retention areas would lie on the rear of proposed Lots 2 and 3 and a portion of

² Section 19-62 (b) of the Montgomery County Code states that "except as otherwise expressly provided in this Chapter, the requirements for a water quality inventory and a preliminary and final water quality plan apply in any area designated as a special protection area to a person proposing a land disturbing activity on privately owned property:...who is seeking approval of an amendment to an approved development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan.

the rear of Lot 1. The forest retention areas would be protected in a Category I conservation easement. The applicant proposes to install a split-rail fence along the boundary of the conservation easement within the three lots so that the easement is clearly marked for future lot owners. Staff supports the use of such a fence. The proposed forest retention areas exceed the subdivision's break-even point of 1.4 acres. Therefore, no forest planting is required.

The preliminary forest conservation plan shows a proposed sewer line through the forest retention area on Lot 2. Staff recommends that this part of the proposed WSSC sewer easement be replanted with native shrubs and/or small trees so that the forest retention areas on either side of the sewer easement can become connected as one forest stand. The sewer easement should also be part of the conservation easement area.

Staff believes that there should be a minimum setback of proposed houses on lots 1, 2, and 3 from the forest retention areas within these lots to ensure that these lots have adequate usable rear yard areas. Separation between the houses and the conservation easement areas would minimize the potential for homeowners to encroach within the conservation easements. Staff recommends that a 35-foot building restriction line measured from the conservation easement boundary be established on these three lots to ensure that there are adequate rear yard areas between houses and the conservation easements.

Staff believes the forest conservation plan, in combination with staff's recommendations described above, meets the requirements of the Forest Conservation Law.

Stormwater Management Concept

To help meet the project's performance goals, the stormwater management (SWM) concept includes the following features:

- Dry wells are required to treat stormwater runoff from rooftops.
- A combination of dry wells, rooftop disconnect, sheetflow to forested areas, and non-rooftop disconnect are counted as water quality and groundwater recharge measures.

Sediment Control

DPS is requiring an engineered sediment control plan for the subdivision. If the houses are constructed one at a time, DPS requires the use of super silt fences. If two or more lots will be under construction at the same time, DPS requires a sediment trap with earth dikes.

Traffic Noise Impacts

Noise impacts are anticipated from projected traffic on Rte. 198. The SHA "Intercounty Connector Study Areas, Technical Noise Report" (November 30, 2004) provides estimates on projected traffic noise levels along Rte. 198. If the projected noise levels from the SHA report are applied to the proposed subdivision, it is estimated that the lots adjacent to Rte. 198 (Lots 1 and 4) would be adversely affected by high noise levels.

Staff recommends that prior to record plat, the applicant provide a more detailed noise impact and abatement study for the subdivision. SHA staff expects that a noise report for the Rte. 198 widening project may be released for public review in the spring of 2006. Information from this SHA noise report may be used by the applicant's consultant to develop the detailed noise study for the subdivision. If noise mitigation is needed for any of the lots, based on projected noise levels, staff recommends that the builder provide a binding commitment to implement noise mitigation measures to mitigate any outdoor and/or indoor noise levels in accordance with the recommendations of the noise study. This may include incorporating acoustical measures for the construction of affected houses.

CONCLUSION

Staff has reviewed this plan for conformance to the Cloverly Master Plan, the Zoning Ordinance and the Subdivision Regulations. The plan is in compliance with the recommendations of the Cloverly Master Plan. The application proposes four clustered lots using sewer in the RE-1 zone. The preliminary plan conforms to the Upper Paint Branch water quality goals and dedicates the required master plan right-of-way widths for Spencerville Road. The plan also demonstrates an environmental benefit by using public sewer system to achieve cluster in lieu of septic systems. The attached data table demonstrates how the plan conforms to the Zoning Ordinance and Subdivision Regulations. The plan has been reviewed by local utilities, fire and rescue services, SHA, DPWT and DPS. All review agencies are satisfied that the plans meet their requirements. Staff, therefore, recommends approval of the plan.

Preliminary Plan Data Table and Checklist

Plan Name: JACOT PROPERTY				
Plan Number: 120060340				
Zoning: RE-1, cluster				
# of Lots: 4				
# of Outlots: 0				
Dev. Type: One-family detached residential				
PLAN DATA	Required/Permitted	Proposed for Approval	Verified	Date
Minimum Lot Area	15,000 sq.ft. using cluster	23,195* sq.ft. is minimum proposed		January 3, 2006
Lot Width	none			
Lot Frontage	25 ft. Min.	25 ft. Min.		January 3, 2006
Setbacks				
Front	40 ft. Min.	40 ft. Min.		January 3, 2006
Side	15ft. Min.	15 ft. Min.		January 3, 2006
Rear	15/50 ft. lot/subd	15 ft. Min.		January 3, 2006
Height	50 ft. Max.	May not exceed maximum		January 3, 2006
Max Resid'l d.u.	4 lots max.	4		January 3, 2006
MPDUs	N/A			
TDRs	N/A			
Site Plan Req'd?	N/A			
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street	Yes	Yes	As shown on plan	January 3, 2006
Road dedication and frontage improvements	Dedication and construction of internal public roads	Yes	As shown on plan (See condition #3)	January 3, 2006
Environmental Guidelines	Yes	Yes	EP memo	December 22, 2005
Forest Conservation	Yes	Yes	EP memo	December 22, 2005
Master Plan Compliance	Yes	Yes		January 3, 2005
ADEQUATE PUBLIC FACILITIES				
Stormwater Management	Yes	Yes	Agency letter	November 8, 2005
Water and Sewer (WSSC)	Yes	Yes	Agency comments	October 11, 2005
10-yr Water and Sewer Plan Compliance	Yes	Yes	Agency letter	October 11, 2005
Well and Septic	N/A			
Local Area Traffic Review	N/A			
Fire and Rescue	Yes	Yes	Agency letter	November 28, 2005

* Size of lots will be reduced slightly to accommodate additional right-of-way requested in condition #3

Attachments:

Attachment 1 – Vicinity Map

Attachment 2 – Preliminary Plan

Attachment 3 – Right-of-way requirements

Attachment 4 - Historic Resources

Attachment 5 – Agency Approvals