



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

MCPB No. 17-047
Site Plan No. 820120010
Ridgeview
Date of Hearing: June 15, 2017

JUN 23 2017

RESOLUTION

WHEREAS, under Section 59-7.1.2 of the Montgomery County Zoning Ordinance, the Montgomery County Planning Board is authorized to review site plan applications; and

WHEREAS, under Section 59-7.7.1.B.1, the Planning Board reviewed this site plan under the procedures and standards of the Zoning Ordinance in effect on October 29, 2014, including the zoning then in effect; and

WHEREAS, on September 6, 2013, Victor Loun ("Applicant") filed an application for approval of a site plan for the construction of 19 one-family detached dwellings on 22.64 acres of RNC zoned-land, located on the east side of Ridge Road, approximately 250 feet north of the intersection with Beall Avenue ("Subject Property"), in the Damascus Policy Area and the 2006 Damascus Master Plan ("Master Plan") area; and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820120010, Ridgeview ("Site Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 2, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 15, 2017, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
MNCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820120010 for or the construction of 19 one-family detached dwellings on the Subject Property, subject to the following conditions:¹

Conformance with Previous Approvals & Agreements

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan No. 120120010.

Environment

2. Forest Conservation & Tree Save

The development must comply with the following conditions of the approved Final Forest Conservation Plan No. 820120010.

- a. A Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed before demolition, clearing, or grading, and the Liber Folio for the easement must be referenced on the record plat.
- b. The limits of disturbance (“LOD”) shown on the Final Sediment Control Plan must be consistent with the final LOD shown on the approved FFCP.
- c. The Applicant must plant the tree variance mitigation plantings by planting eight, 3” caliper trees, in the location specified by the FCP, or at the direction of the FCI within the first planting season following the initial pre-construction meeting with the FCI.
- d. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
- e. At the pre-construction meeting, the limit of disturbance (LOD) will be relocated, at the direction of the M-NCPPC Forest Conservation Inspector, to place Tree #26 outside the limits of disturbance (LOD). This revised LOD is to be no closer to the tree than the current root prune line as shown on the FCP, and preserve as much of the critical root zone (CRZ) as possible.

Open Space, Facilities and Amenities

3. Rural Open Space, Facilities, and Amenities

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.

- a. The Applicant must provide a minimum of 15.23 acres of Rural Open Space (69% of net tract area) on-site.
- b. Before the final inspection for the residential dwellings on lots 5 or 6, all public amenities within the common open space community green area on the east side of the public road, as shown on the Certified Site Plan must be completed.
- c. Before the final inspection for the 15th residential dwelling unit, all landscaping and amenities in the common open space area on the west side of the public road, as shown on the Certified Site Plan must be established.

4. Maintenance of Public Amenities

The Applicant is responsible for maintaining all publicly accessible amenities including, but not limited to the paver path, seating walls and landscaping found on HOA property.

Density & Housing

5. Transfer of Development Rights (TDRs)

- a. The Applicant must acquire 10 TDRs for the development.
- b. The record plat(s) must reflect serialization and liber/folio reference for all TDRs used by the development.

Site Plan

6. Landscaping

The Applicant is responsible for installing all landscape material in the quantities and locations specified by the Certified Site Plan. Landscaping shall be planted as part of the completion of the common open space amenity areas.

7. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit or Sediment Control Permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section ----- of the Montgomery County Zoning Ordinance, with the following provisions:

- a. A cost estimate of the materials and facilities, which, upon Staff approval, will establish the surety amount.
- b. The cost estimate must include applicable Site Plan elements, including, but not limited to plant material, on-site lighting, site furniture, mailbox pad sites, retaining walls, fences, railings, paths and associated improvements within the development. The surety must be posted before issuance of the any building permit within the development.

- c. The bond or surety must be tied to the development program, and completion of all improvements covered by the surety will be followed by inspection and potential reduction of the surety.
- d. The bond or surety shall be clearly described within the Site Plan Surety & Maintenance Agreement including all relevant conditions and specific CSP sheets depicting the limits of the development.

8. Development Program

The Applicant must construct the development in accordance with a development program table that will be reviewed and approved prior to the approval of the Certified Site Plan.

9. Certified Site Plan

Before 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 stormwater management concept approval letter, development program, and Site Plan resolution on the approval or cover sheet(s).
- b. Add a note to the Site Plan stating that "M-NCPPC Staff must inspect all tree-save areas and protection devices before clearing and grading."
- c. Add a note stating that "Minor modifications to the limits of disturbance shown on the site plan within the public right-of-way for utility connections may be done during the review of the right-of-way permit drawings by the Department of Permitting Services."
- d. Modify data table to reflect development standards approved by the Planning Board.
- e. Ensure consistency of all details and layout between Site and Landscape plans.
- f. Add plant labeled NS to the Landscape Plan Plant Schedule for the common open space.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Ridgeview, No. 820120010, submitted via ePlans to the M-NCPPC as of the date of the Staff Report, 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 as set forth in the Staff Report, which the 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 Site Plan is not subject to a development plan, diagrammatic plan, a schematic development plan certified by the Hearing Examiner or a project plan.

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

The Subject Property is located in the RNC Zone. The Application was reviewed under the provisions of Section 59-C-9.58 for developments in the RNC Zone utilizing TDR's, which provides for following the standard RNC Zone review found in subsection 9.57, plus meeting additional requirements of subsection 9.58. Based on the following data table, which sets forth the development standards approved by the Planning Board and binding on the Applicant, and based on other evidence and testimony of record, the Application meets all of the applicable requirements of the RNC Zone.

Zoning Data Table: RNC with TDRs Section 59-C-9.57 and 59-C-9.58

Development Standard	Required by Zone	Approved and Binding
Minimum Tract Area	10 acres	22.64 acres
Maximum Density (Master Plan)		
Base Density	0.4 units/acre (9 DU)	
Density With TDRs	1 unit/acre (22 DU)	19 DU
TDRs		
Max TDRs allowed	(22 - 9) = 13	
Minimum TDRs required	2/3 of 13 = 9 TDRs	10 TDRs
Minimum Lot Area	4,000 sq. ft.	7,200 sq. ft. min
Minimum front setback	15 ft.	15 ft. min
Minimum yard (if provided)		
Adjacent to other Optional Method	8 ft. for side	8 ft. min
Not Adjacent to Optional Method	30 ft. for side and rear	Side N/A, 30 ft. for rear
Minimum frontage	25 ft.	25 ft. min
Maximum Building Height	35 ft.	35 ft. max
Maximum Lot Coverage	35%	35% max
Accessory Structure Setbacks		
Side and Rear	5 ft.	5 ft. min

From any street	60 ft.	60 ft. min
Common Open Space	Required	18,600 sq. ft.
Rural Open Space	65% of tract (14.7 acres)	69% of tract (15.23 acres)
Parking One-family detached	2 spaces/unit: 38 total	38 (garage and driveway)

In addition to the development standards, the RNC Zone has requirements for Open Space, Lot and House Sizes, and special requirements for developments utilizing TDR's.

Rural and Common Open Space

Based on Section 59-C-9.57, all developments in the RNC Zone must provide a minimum of 65% of the tract area as Rural Open Space. The Space should be contiguous and must meet the goals of the applicable Master Plan. This Application provides for a total of 15.23 acres (69%) of Rural Open Space, as one contiguous parcel located on the western 2/3 of the Subject Property. This is consistent with the Master Plan recommendations for resource and forest protection in the watershed and the Legacy Open Space recommendation specific to the Subject Property.

Common Open Space is required, per Section 59-C-9.574(e) for all development applications with 10 or more dwelling units. The exact amount of required Common Open Space is unspecified, however it must be created for the enjoyment of future residents, must be located in a central location and must not count toward the requirements of the Rural Open Space. The Application is creating two separate Common Open Space areas, totaling 18,600 square feet in size, that are centrally located within the developed portion of the Subject Property, and are adequately sized and located to be highly visible, accessible, and provides opportunities for active and passive recreation opportunities.

Diversity of Lot and House Sizes

Section 59-C-9.574 requires the Planning Board find that a diversity of lot sizes has been achieved, and that the Planning Board should encourage a diversity in house sizes. The sizes of lots in the Application range between 7,200 and 15,900 square feet, which the Planning Board finds adequate, considering the size of the existing one-family detached dwellings located to the east, and the Master Plan and zoning requirements to cluster development on the eastern portion of the Subject Property. The provided diversity of lot sizes encourages a diversity of unit sizes, as the larger lots are adequate to support larger dwellings, and the smaller lots will require homes with a smaller foot-print to be constructed.

Additional TDR provisions of 59-C-9.58

The RNC with TDR Zone also has the following requirements for approval:

a. General Provisions 59-C-9.584.2

Properties utilizing TDRs must include the creation, transfer and extinguishment of development rights by means of official documentation including easements and releases, in a recordable form approved by the Planning Board. The Planning Board must also ensure the recordation of development rights in the land records, ensuring the total density does not exceed the maximum RNC density allowed in Chapter 59, or the associated Master Plan. The Planning Board also must ensure conformance to Chapter 25A for the requirement and calculation of MPDUs if applicable. The Application is approved with the standard Planning Board conditions to ensure these provisions are met, and the density of 19 units is less than the 22-unit maximum allowed by the Master Plan, and is less than the 20-unit threshold for requiring MPDU development in Chapter 25A.

b. Approval Procedures 59-C-9.584.3

The Planning Board must assure during the approval of an Application utilizing TDRs that all General Provisions have been met, that the request is initialized through a Preliminary Plan, and that there is a Site Plan. The Planning Board found the Application complied with the General Provision elements for using TDRs, the Site Plan is accompanied by a Preliminary Plan which initialized the TDR request, and the Planning Board has reviewed this subject Site Plan and recommended approval with conditions.

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 location of buildings and structures is adequate, safe and efficient. The building locations efficiently respond to the lot pattern within the development, and help achieve a high level of compatibility with the existing residential development to the east of the Subject Property with a similar building spacing and yard size. The building placement also helps frame the street and the two areas of common open space by having the dwellings front these public spaces.

b. Open Spaces

The location of the open spaces is safe, adequate and efficient. The Site Plan includes two types of open space; common open space and rural open space. The rural open space is a requirement of the RNC zone, needing to comprise at least 65% of a site, and should be located in a contiguous space protecting natural and scenic resources. The rural open space on the site is approximately 69% of the total tract, and protects a large amount of existing forest and stream valley buffer areas on the site. Future residents will have passive access to the rural open space from multiple locations along the public road and through the common open space area. The common open space is required for RNC zoned developments with more than 10 dwelling units and should be located in a centralized location. The Site Plan includes two separate but adjacent areas of common open space. One is a more formal 9,000 square foot community green that has an open central area, with decorative trees, a path and seating located around the exterior. The second common open space is a 9,600-square foot lawn which co-serves as a visual and physical connection to the rural open space. Both spaces are readily accessible to all of the lots and have high visibility from the road and from the proposed dwellings.

c. Landscaping and Lighting

The location of the proposed landscaping and lighting is safe, adequate and efficient. Most of the planting material on the Site Plan is street trees, which is regulated by MCDPS on the public street. The two common open spaces (The Community Green and the Lawn) however do provide landscape material which is regulated through the Site Plan. The Community Green uses the sidewalk and street trees to define its western border, and has a row of flowering small trees that will define the eastern edge. This provides a clear boundary between the open space and the private lots without having to wall the space off with structures. The proposed Lawn similarly uses small trees to delineate the northern and southern borders of the Lawn from the shared driveways. In the western portion of the Lawn, closer to the rural open space, canopy and understory trees will be planted to provide some shade and some visual interest. All of the lighting is in the public right-of-way for the new street and is ultimately regulated by MCDPS at the time of road construction.

d. Recreation Facilities

The Location and quantity of recreation facilities provided is safe, adequate and efficient. The Site Plan is providing for a total of 19 one-family dwelling units, which is fewer than the 25 which would trigger the requirements of the 1992 Montgomery County Recreation Guidelines. The recreation guidelines do however encourage the creation of recreation opportunities

on smaller projects, and the Site Plan, through the common open space requirements, has provided opportunities for sitting, gathering and informal play space which is centrally located and easily accessible.

e. Vehicular and Pedestrian Circulation

The location and design of the pedestrian circulation on the Subject Property is safe, adequate, and efficient. The Application includes five-foot wide sidewalk to be located on the east side of the new public street, which is consistent with where all but five of the new lots will have street frontage. The five lots located on the west side of the street are in one clustered area around the common open space and a fully accessible street crossing will be provided. Staff finds it appropriate to only build the sidewalk on the one side of the street because of the low traffic volumes, the location of the majority of the dwellings, and the reduced environmental impact to the rural open space. Additionally, the Site Plan shows a new sidewalk section along the frontage with Ridge Road, consistent with the Preliminary Plan. Vehicle access to all lots is provided on a single new tertiary residential street with a cul-de-sac, as modified by MCDOT and described in the Preliminary Plan portion of this report. Tertiary streets are adequate for 19 new dwellings, and the road width is adequate for personal and emergency vehicles. MNCPPC-MC Department of Parks has recently purchased the undeveloped property to the north of the subject property, ending the need to provide vehicle access to the property to the north.

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

The use and structures are compatible with other uses, site plans, existing, and proposed development on adjacent properties. To the south and west of the developable portion of this site are environmental buffers and rural open space, providing large buffered space between adjacent developable properties and park properties. To the north is a recently acquired park property with no immediate intention to provide active park uses. East of the proposed lots are existing single family detached dwellings that are oriented with their fronts toward Ridge Road and their rear yards toward the subject property. The lots in this Application are similar with their fronts along a new public street and their rear yards then being adjacent to the existing rear yards. This relationship of rear yards to rear yards, along with the provided setbacks and the similar housing types makes the proposed development compatible with existing development.

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.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law (“FCL”). The Forest Conservation Plan (“FCP”) contains a 22.66 net tract area, including a total of 15.8 acres of existing forest. This site is zoned RNC which is assigned a Land Use Category of Medium Density Residential Development in the Land Use Table of the Environmental Guidelines. This results in an afforestation threshold of 20% and a conservation threshold of 25% for the net tract area of the project site.

This project is using the optional method of development, and under the Montgomery County FCL, Section 22A-12(f) of the FCL states there are special provisions for minimum retention, reforestation and afforestation on any site developed under a cluster or other optional method of development in a one-family residential zone. Such developments must include a minimum amount of forest on-site as part of meeting its total forest conservation requirement. Forest retention should be maximized where possible. This site is being developed under an optional method and is located within a one-family residential zone, RNC. As such, 22A-12(f) would be applicable to this development site. The FCL requires that forest retention must equal the applicable conservation threshold for the development, which is 25% of the net tract area (5.66 acres). The Application retains 11.58 acres, which is in excess of the conservation threshold, therefore the Application complies with the FCL. All areas of retained forest will be located within a Category I Conservation Easement.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law identifies certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree’s critical root zone (“CRZ”), requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to 16 Protected Trees as identified in the Staff Report. In accordance with Section 22A-

21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the removal of the 12 trees is due to Zoning requirements and Master Plan recommendations for clustering development in the same location as the Variance trees, and necessary site design requirements due to topography.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The variance is not based on conditions or circumstances which are the result of the action by the Applicant, but rather on the existing site conditions and the Master Plan recommendations. There are no feasible options to eliminate impacts to the Protected Trees based upon the limited development area in the Master Plan.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is not related in any way to a condition on an adjacent, neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not located within a stream buffer. The Application proposes mitigation for the removal of the two specimen trees located outside of the existing forest by planting five 3" caliper trees on-site.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately one caliper inch of planting for every four caliper inches removed. No mitigation is required for Protected Trees impacted but retained.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Site Plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 23 2017 (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 Cichy, seconded by Commissioner Dreyfuss, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, June 15, 2017, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board