



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

MCPB No. 19-136

Site Plan No. 820200020

Poplar Pointe

Date of Hearing: December 19, 2019

FEB 03 2020

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, on July 23, 2019, Oxbridge Development at Alderton, LLC c/o Elliot Totah, Deborah Poznerzon-Tallman Trust and Martha E. Barrick ("Applicant") filed an application for approval of a Site Plan for the development of eleven single-family detached dwelling units on 12 new lots, with one existing dwelling unit to remain; including open space and HOA parcels, which includes the preservation of onsite forest, and to dedicate and construct an unbuilt segment of Alderton Road from its current terminus to the intersection of Night Sky Drive on 6.28 acres of R-200 zoned-land, located at 13710 Alderton Road, 150 feet north of Night Sky Drive, Silver Spring, MD, 20906 and consists of parcels 526, 582, 605, and 607, ("Subject Property"), in the Kensington/Wheaton Policy Area and 1989 *Communities of Kensington-Wheaton Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's Site Plan application was designated Site Plan No. 820200020, Poplar Pointe ("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 December 9, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 19, 2019, the Planning Board held a public hearing at which it heard testimony and received evidence on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Verma, with a vote of 5-0; Commissioners Anderson, Cichy, Fani-Gonzalez, Patterson, and Verma voting in favor.

Approved as to

Legal Sufficiency

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NOW, THEREFORE, BE IT RESOLVED that the Planning Board approves Site Plan No. 820200020 to construct eleven (11) single-family detached dwelling units (12 total as one existing dwelling unit shall remain), including open space and HOA parcels, and to dedicate and construct an unbuilt segment of Alderton Road from its current terminus to the intersection of Night Sky Drive. All site development elements shown on the latest electronic version as of the date of the Staff Report submitted via ePlans to the M-NCPPC are required, except as modified by the following conditions:

1. Preliminary Plan Conformance

The development must comply with the conditions of approval of Preliminary Plan No. 120180080.

Density and Height

2. Density

The Site Plan is limited to twelve single-family detached units, and various open space and HOA parcels on the Subject Property.

3. Height

The development is limited to a maximum height of 40 feet, as measured from the building height measuring point, as illustrated on the Certified Site Plan.

Site Plan

4. Site Design

Prior to the issuance of any building permit, the Applicant must obtain approval of a Minor Site Plan Amendment to provide architectural drawings that illustrate exterior architectural character, proportion, materials, and articulation, which are to be in substantial conformance to the architectural design guidelines provided, as determined by M-NCPPC Staff. Details of the houses shall include elements related to a) recessed garages by at least 4 feet from the main body of the house or architecturally treated garages to minimize presence from the sidewalk, b) front porches that cover a minimum of 1/3 of the front façade (excluding the width of the garage), c) building fenestration for side elevations that add up to a minimum of 15%, and d) the option for lead walks that connects the porch or stoop to the main sidewalk (to be installed at homebuyer's discretion).

5. Lighting

a) Prior to Certified Site Plan, the Applicant must provide certification to Staff from a qualified professional that the exterior lighting in this Site Plan conforms to the latest Illuminating Engineering Society of North America (IESNA) recommendations (Model Lighting Ordinance-MLO: June 15, 2011,

or as superseded) for residential development. All onsite exterior area lighting must be in accordance with the latest IESNA outdoor lighting recommendations (Model Lighting Ordinance-MLO: June 15, 2011, or as superseded). All onsite downlights for lighting on homes must have full cut-off fixtures.

- b) Deflectors shall be installed on all proposed fixtures to prevent excess illumination and glare, including on the fixtures abutting residential properties.
- c) Illumination levels generated from on-site lighting must not exceed 0.5 footcandles (fc) at any property line abutting public roads and residentially developed properties.
- d) Streetlights and other pole-mounted lights must not exceed the permitted height including the mounting base as illustrated on the Certified Site Plan.
- e) Lighting must not conflict with required spacing of proposed street tree plantings and utility poles and overhead wires along the site frontage.

Open Space, Facilities and Amenities

6. Open Space

The Applicant must provide a minimum of 23% of the net lot area (approximately 63,018 square feet) of Common Open Space on-site as shown on the Site Plan.

7. Maintenance of Public Amenities

Prior to issuance of the final residential building permit, the Applicant must install all publicly accessible amenities including, but not limited to, the natural surface trail, easement fencing, picnic tables, fitness stations, and benches. The homeowner's association shall be responsible for maintaining all publicly accessible amenities.

8. Recreation Facilities

The Applicant must provide the minimum required recreation facilities as shown on the Certified Site Plan.

Environment

9. Final Forest Conservation and Tree Save

The Applicant must comply with the conditions of the approved Forest Conservation Plan (FFCP) No. 820200020.

- a) The Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the certified Final Forest Conservation Plan. The Category I Conservation Easement must be approved by the M-NCPPC Office of the

General Counsel and recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.

- b) The Applicant must install permanent Category I Conservation Easement signage along the perimeter of the conservation easements.
- c) The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved FFCP.
- d) Prior to scheduling a pre-construction meeting, the Applicant must submit and obtain approval for the financial security for 0.58 acres of forest planting and required elements of the FFCP.
- e) The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.

10. Stormwater Management

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (MCDPS) Water Resources Section in its stormwater management concept letter dated October 25, 2019 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which the MCDPS Water Resources Section may amend if the amendments do not conflict with other conditions of Site Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities. All standard notes should be added to the landscape plans.

Transportation & Circulation

11. Transportation

- a) Prior to issuance of any residential building permit, the Applicant must:
 - i. Provide a Public Improvement Easement (PIE) revised to ten (10)-foot-wide, on both sides of Alderton Road along the Property frontage.
 - ii. Provide a ten (10)-foot-wide Public Utility Easement, opposite the right-of-way, in addition to the Public Improvement Easement, on each side of Alderton Road along the Property frontage, as shown on the Site Plan.
- b) Prior to issuance of the last residential building permit, the Applicant must:
 - iii. Construct the unbuilt segment of Alderton Road through the Property and extend the unbuilt segment of Alderton Road approximately 140 feet south to connect to Night Sky Drive, as shown on the Site Plan.

- iv. Satisfy MCDOT's requirements for safe and continuous sidewalks and an appropriate pedestrian crossing where the proposed sidewalk terminates along Alderton Road.
- v. Provide dual ramps aligned with the existing receiving ramps at the southeast corner of the intersection of Alderton Road and Night Sky Drive.
- vi. Construct the final driveway layout of the existing home to remain at 13701 Alderton Road (Parcel 607) as determined by the homeowner.

12. Pedestrian Circulation

The Applicant must provide 5-foot wide sidewalks along Alderton Road.

13. Easements

The easement plan must show that the PIE includes the proposed sidewalk around the circular driveway on Alderton Road.

14. Department of Permitting Services-Right-of-Way

The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Right-of-Way Permitting Section in its letter dated October 16, 2019, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Site Plan approval.

15. Site Plan Surety and Maintenance Agreement

Prior to issuance of any building permit, sediment control permit, or Use and Occupancy Certificate, 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 59.7.3.4.K.4 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, indoor and outdoor recreational facilities, site furniture, mailbox pad sites, trash enclosures, retaining walls, fences, railings, private roads and sidewalks, private utilities, paths and associated improvements of development, including sidewalks and bikeways. The surety must be posted before issuance of any building permit of development and will be tied to the development program.

- c) The bond or surety must be tied to the development program, and completion of all improvements covered by the surety for each phase of development will be followed by a site plan completion inspection. The surety may be reduced based upon inspector recommendation and provided that the remaining surety is sufficient to cover completion of the remaining work.

16. Development Program

The Applicant must construct the development in accordance with the development program subject to review and approval by Staff before Certified Site Plan.

17. Clearing and Grading

No clearing or grading of the site or recording of plats may occur prior to Certified Site Plan approval.

18. 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) The Applicant shall coordinate with MCDOT and DPS as necessary for the updated roadway classification and documentation of modifications from the horizontal curve and sight distance design standards.
- d) Add a note to the Forest Conservation Plan that states "to enhance neighborhood access, a future trail connection may be provided to link the natural surface trail within the combined Common Open Space and Category I Conservation Easement area."
- e) Provide wayfinding signage along Alderton Road that indicates the direction and distance to reach the Matthew Henson Trail connection, approximately 0.5 miles north of the Project.

BE IT FURTHER RESOLVED that all site development elements shown on the latest electronic version of Poplar Pointe Site Plan No. 820200020, 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 development satisfies any previous approval that applies to the site.*

The Application has demonstrated compliance with the conditions of approval for the previously approved Preliminary Plan (No. 120180080) for the Subject Property.

2. *The development satisfies the binding elements of any development plan or schematic development plan in effect on October 29, 2014.*

Not applicable.

3. *The development satisfies any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment.*

Not applicable.

4. *The development satisfies applicable use standards, development standards, and general requirements under the Zoning Ordinance.*

a. Development Standards

The Subject Property includes approximately 6.28 acres zoned R-200 on Subject Property. The Application satisfies the applicable development standards as shown in the following data table:

Section 59.4.4.7 C (Dwelling unit, one-family detached house) Optional Method Development - Cluster Development		
	Required	Approved
1. Site		
Dimensions (min)		
Usable area	5 acres	6.29 acres
Density (max)		
Density (units/acre of usable area)	2	1.91
Open Space (min)		
Common open space	20%	23%

(% of usable area)		
Site Coverage (max)		
Site coverage	n/a	n/a
2. Lot Dimensions (min)		
Lot area	9,000 sf.	Varies (9,000+ sf. – 14,000+ sf.)
Lot width at front building line	Determined at Site Plan	60 ft. min.
Lot width at front lot line	25 ft.	25 ft.
Frontage on street or open space	25 ft.	25 ft.
Coverage (max)		
Lot	25% max.	25% max.
3. Placement		
Principal Building Setbacks (min)		
Front setback from public street	25 ft.	25 ft.
Front setback from private street or open space	10 ft.	10 ft.
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone	25 ft.	25 ft.
Side street setback, abutting lot does not front on the side street or is not in a Residential Detached Zone	15 ft.	n/a
Side setback	Determined at Site Plan	5 ft.
Rear setback	Determined at Site Plan	20 ft.
Side setback, abutting property not included in application	Equal to required setback for a detached house building type in the abutting zone under standard method	Min. 12 ft.
Rear setback, abutting property not included in application	40 ft.	40 ft.
Rear setback, alley	4 ft.	n/a
4. Height (in feet)		
Height (max)		
Principal building	40 ft.	40 ft.
Accessory structure	25 ft.	n/a

b. General Requirements

i. *Parking, Queuing, and Loading*

The intent of the vehicle and bicycle parking, queuing, and loading requirements is to ensure that adequate parking is provided in a safe and efficient manner. The Planning Board finds that the Application meets the on-site parking requirement of 2.0 vehicle spaces for each new dwelling unit, in addition to on-street parking

along one side of the Alderton Road extension. Overall, the parking is appropriate for the nature of the use and intensity and is easily accessible from the street. The design of the Site Plan can facilitate the safe unloading of small delivery trucks that can be anticipated for neighborhood deliveries. Such minor loading activities can occur using available on-street parking temporarily, without impeding the flow of traffic along Alderton Road. Also, the on-street parking offers additional visitor parking and aids in traffic calming to make the neighborhood more pedestrian friendly and walkable. Additionally, to the greatest extent feasible, the Application limits vehicle access to and from parking areas from crossing the proposed sidewalks.

ii. *Open Space and Recreation*

The Applicant is providing Common Open Space in accordance with requirements for residential zones. In accordance with Section 59.6.3.1 of the Zoning Code, the proposed Site Plan incorporates open space in a manner that provides adequate light, air, circulation, and recreation and encourages preservation and enhancement of natural resources, including improvement of water and air quality. The Common Open Space and Conservation Easement areas will feature additional trees that yield environmental benefits, and the existing on-site spring-fed farm pond and stream will remain intact. No prohibited features are proposed within the Open Space areas. Two public access points are provided to the Common Open Space and Conservation Easement areas that are visible from Alderton Road and include landscaped areas.

iii. *General Landscaping and Outdoor Lighting*

Division 6.4 of Chapter 59 of the Zoning Code provides minimum standards for quantity, size, location, and installation of landscaping and outdoor lighting on private property. The intent of these standards is to preserve property values, preserve and strengthen the character of communities, and improve water and air quality. The Planning Board finds that the landscaping and lighting satisfy all applicable design guidelines and streetscape standards. All trees and plant materials at the time of planting, meet the minimum required caliper and height, and most of the site landscaping contributes to stormwater management measures. The six (6) street lighting fixtures along Alderton Road are within

the public right-of-way and will not be directed upward. In accordance with design requirements for lighting, the shielded light fixtures are appropriately spaced and oriented away from the residential uses to reduce light glare. The Planning Board concludes that the Site Plan meets the intent of these general development requirements and will not adversely impact the existing community character but will rather enhance safety along the road and in the neighborhood.

5. *The development satisfies the applicable requirements of Chapters 19 and 22A of the Montgomery County Code.*

a. Chapter 19, Erosion, Sediment Control, and Stormwater Management

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on October 25, 2019. The Site Plan will meet stormwater management requirements through the use of an environmental site design (ESD) plan that includes drywells, landscape infiltration, and bioswales.

b. Chapter 22A, Forest Conservation

The Board finds that as conditioned the Forest Conservation Plan complies with the requirements of the Forest Conservation Law and the Preliminary Forest Conservation Plan was approved in conjunction with Preliminary Plan No. 120180080. There is 1.15 acres of existing isolated high priority forest and the Site Plan will clear 0.29 acres of forest, retain 0.86 acres of forest, and plant 0.58 acres of forest. The retained and planted forest will be on homeowner's association property and will be covered by a 1.77-acre Category I Conservation Easement.

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 a revision to the removal and CRZ impact to Protected Trees as identified in the Staff Report. As part of the Preliminary Plan and associated Preliminary Forest Conservation Plan,

the Planning Board previously approved a variance request to remove eight (8) trees and to impact, but not remove, six (6) trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. The variance request has been updated to show the removal of nine (9) trees and impact, but not remove, five (5) trees. Tree #5, 34" Sycamore was previously shown as impacted, but retained, and is now identified for removal after further study. In accordance with Section 22A-21(a), the Applicant has requested a Variance for Tree #5 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 variance is necessary as the Site Plan shows increased impacts to the Tree #5's CRZ due to refinements in housing footprints and grading. The following variance request findings applies only to Tree #5, as the previous variance was approved with the Preliminary Plan.

The Board makes 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 this variance will not confer a special privilege on the Applicant as disturbance of the specified tree is a result of the need to grade the proposed lots to provide positive drainage, while meeting the existing grades on adjacent properties. Disturbance has been minimized to retain the existing forest. The size and configuration of the Subject Property preclude alternative site designs that would allow the variance trees to remain undisturbed.

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

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. The variance is necessary due to the constraints of Property size, the two existing segments of road that will connect, the infill nature of the development, and the need to retain existing forest.

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 a result of the location of trees and the proposed development and not a result of land or building use on a neighboring property. The impacts are due to the location of Tree #5 between existing development and proposed development and the need to meet existing grades.

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

The Subject Property lies in the Upper Northwest Branch watershed and contains 1.15 acres of high priority forest. There is a spring-fed farm pond within the forest and 0.45 acres of partially forested stream buffer. The Subject Property will be developed in accordance with the Maryland Department of the Environment criteria for stormwater management and the stream valley buffer will be planted and protected by easement. This approval is conditioned on mitigation that approximates the form and function of trees removed. Therefore, their removal will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being impacted will remain to provide the same level of water quality protection as it currently provides.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves the removal of nine (9) trees to be mitigated at a rate of 1" caliper per 4" DBH removed, using a minimum 3" caliper native shade tree. The Final Forest Conservation Plan includes 21 native shade trees, with a 3" caliper size, as mitigation for the trees removed.

6. *The development provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities.*

The Planning Board finds vehicular access points for the dwelling units are provided on shared semi-circular driveways which are located along the extension of Alderton Road, a public roadway. The Site Plan includes driveway locations that maximize the design and access, including the driveway for the retained single-family detached dwelling on Alderton Road near Night Sky Drive. The Site Plan provides five-foot wide public sidewalks along the Alderton Road extension and the two shared driveways off Alderton Road and will connect into existing sidewalks along Night Sky Drive and will extend as far north as possible along the existing northern portion of Alderton Road. A safe crossing will be provided at the northern terminus of the sidewalk on Alderton Road. The Site Plan also includes relocated ADA

curb ramps and crosswalks with streetscape improvements which include pedestrian scale lighting, landscaping, and street trees.

7. *The development substantially conforms to the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan.*

The Master Plan identifies the Subject Property (Parcels 526, 582 and 605) as Critical Area 4 and recommends continuation of the existing R-200 zoning. The Master Plan also designates the parcels as suitable for the cluster option, "with such development assuring compatibility with the surrounding neighborhood." The Master Plan emphasizes the protection of the existing residential character. A land use and zoning policy of the Master Plan provides "that all infill residential development be similar in character and compatible in density with the immediate neighborhood within which it is contained." In addition, the Master Plan specifically states that the cluster development is "permitted only if it also provides Common Open Space for the community." Accordingly, the Planning Board finds the Site Plan provides open space that is accessible to the surrounding individual lots being created as well as the broader existing community.

8. *The development 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.*

As previously approved by Preliminary Plan No. 120180080, the Subject Property will be served by adequate public facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

9. *The development is on a property in a Rural Residential or Residential zone and is compatible with the character of the residential neighborhood.*

The Subject Property is located within the R-200 zoning district and exclusively surrounded by single-family detached dwellings. The 11 single-family detached dwellings are compatible with neighboring residential uses in the area in terms of density, layout, orientation, height and scale. This Site Plan continues the existing pattern of single-family detached houses in the neighborhood. Also, the approved dwellings directly relate to the abutting residential dwelling (Parcel 607 which is part of the 12-lot subdivision), that will be retained at the southeastern corner of Alderton Road and the residential dwelling at the

southwest corner of Alderton Road and approximately 250 feet north of Night Sky Drive.

10. The development is on a property in all other zones and is compatible with existing and approved or pending adjacent development.

Not applicable.

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 § 59-7.3.4.H; 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 FEB 03 2020 (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 Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, January 9, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board