




MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

DATE: April 23, 2008

TO: Richard Weaver, Planner Coordinator, Development Review Division
Joshua Sloan, Planner Coordinator, Development Review Division

FROM: Candy Bunnag, ^{CB}Planner Coordinator, Environmental Planning,
Countywide Planning Division

VIA: Stephen D. Federline, Supervisor, Environmental Planning, Countywide
Planning Division 

SUBJECT: Preliminary Plan 120080070 and Site Plan 820080040, Ashton Meeting
Place

RECOMMENDATION:

The Environmental Planning staff has reviewed the preliminary plan and site plan referenced above. Staff recommends approval of the preliminary plan of subdivision and site plan with the following conditions:

1. The proposed development shall comply with the conditions of the Preliminary Forest Conservation Plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits. Conditions include, but are not limited to, the following:
 - a. Approval of the Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to any clearing, grading or demolition on the site.
 - b. Worksheets on Preliminary Forest Conservation Plan must be revised to include corrected acreages for tract areas.
 - c. Specific protection measures for the Siberian Elm, as identified in the letter dated January 8, 2008, from Chris Cowles, ISA certified arborist, to Phil Perrine must be incorporated into the Final Forest Conservation Plan, including, but not limited to, the installation of utility lines within the PUE near the tree by directional boring and installation of a "root friendly paving section" for any sidewalk or walkway within the tree's critical root zone, and specific stress reduction measures before, during, and up to 5 years after completion of construction.

- d. A certified arborist must be present at the pre-construction meeting, during construction, and after construction to implement specific tree protection measures for the Siberian Elm at the corner of Ashton Road and New Hampshire Avenue.
 - e. Add 0.043 acre (1880 square feet) of forest planting and Category I conservation easement at the eastern corner of the open space area, adjacent to the environmental buffer.
 - f. Estimate for forest planting bond must be revised to include additional forest planting recommended in condition (1)(e), above. Bond estimate must be based on \$0.90 per square foot of total forest planting area or a detailed estimate from a forest planting contractor.
 - g. Specific location of tree protection fencing may be adjusted in the field by the M-NCPPC inspector, in coordination with the certified arborist, at the pre-construction meeting.
2. Applicant must revise the preliminary plan, site plan, and forest conservation plan so that imperviousness for the portion of the project that lies outside the environmental buffer and is zoned RC does not exceed 10 percent. This will require the relocation of the access road for the proposed stormwater management facility.
 3. The applicant must submit a geotechnical study, prepared by a qualified geotechnical engineer, to evaluate how the proposed on-site stormwater management facility may need to be modified to prevent the flow of surface and groundwater from the adjacent natural wetlands into the stormwater management facility. Geotechnical study must be submitted to M-NCPPC Environmental Planning staff and DPS staff for review.
 4. The applicant must either construct the stormwater management facility with modifications as recommended in the geotechnical study to prevent water flows from the wetlands into the stormwater management facility or provide funding to SHA to construct the modifications, if SHA is to construct the facility.
 5. The applicant must show on the building permit and construct a six-foot high noise barrier for Lot 1, as recommended by the "Phase I Traffic Noise Analysis, Ashton Meeting Place, Report #071220", by Scott Harvey and Josh Curley, Phoenix Noise and Vibration, LLC, December 20, 2007.
 6. Acoustical treatment shall be required for houses on lots # 2, 3, 4, 5, 6, 7, and 8:
 - a. Prior to issuance of building permit, an acoustical engineer must certify through building shell analysis that interior noise levels will not exceed 45 dBA, Ldn.
 - b. The builder must construct the buildings in accord with these acoustical recommendations, with any changes affecting acoustical performance approved by the acoustical engineer, with a copy to MNCPPC staff.
 - c. The certification and builder acceptance letter must be provided to

MNCPPC Environmental Planning staff before building permits for each lot are issued.

7. Category I conservation easement must be placed over forest retention areas, forest planting areas, and that portion of the environmental buffer that does not include the pedestrian path. Conservation easement must be shown on record plats.
8. Portion of pedestrian path that lies within the environmental buffer must be designed, constructed, and maintained with porous concrete or similar porous material.

BACKGROUND

The 8.63-acre subject site lies within the Patuxent River watershed (Use IV waters). The site is zoned C-1, R-60, and RC and includes several properties. Most of the site is in grass cover with scattered trees. Some forest cover exists on part of the site that lies within an environmental buffer (see below). A bank and associated parking area and driveway are located in the northwestern portion of the site near the intersection of New Hampshire Avenue and Ashton Road. Two other buildings also existed on the site. These buildings were demolished in 2007 under demolition permits that did not require review under the Forest Conservation Law because each building was located on property that was under 40,000 square feet in size.

The eastern portion of the site contains a wetland and environmental buffer with a headwater stream. A portion of the site's environmental buffer (28,110 square feet, or 0.65 acre, out of 66,860 square feet, or 1.53 acres) is protected by a Category I conservation easement as part of an approved preliminary subdivision plan (1-95053, Derrick's Addition to Ashton, approved by the Planning Board on June 1, 1995) that created two lots and an outlot. Forest planting was required under an approved forest conservation plan, but only part, not all, of the forest that had been planted remains in place. Much of the environmental buffer is in grass cover, with forest cover in the southern portion of the environmental buffer.

Forest Conservation

The subject site has a total of about 0.81 acre of forest, most of which lies within the environmental buffer. The applicant proposes to clear 0.07 acre of the 0.37 forest that lies within the RC-zoned portion of the site. The proposed forest clearing lies outside the environmental buffer. The proposed amount of forest retained, 0.30 acre, is 25 percent of the RC portion of the tract area. Section 22A-12(f)(2)(A) of the County Forest Conservation Law states that "in an agricultural and resource area, on-site forest retention must equal 25% of the net tract area." Land that is zoned RC is considered to be an agricultural and resource area, and is subject to this provision of the Forest Conservation Law. The proposed forest clearing and retention within the RC portion of the site meets the Forest Conservation Law.

The applicant does not propose to clear forest outside the RC portion of the site. The Forest Conservation Plan shows 0.88 acre of reforestation that would occur within the environmental buffer area.

Staff recommends that a 0.043-acre (1880 square foot) area at the eastern edge of the open space area be planted in forest and protected in a Category I conservation easement. This area is shown in the approved Forest Conservation Plan for Derrick's Addition to Ashton (preliminary plan and preliminary forest conservation plan 1-95053, approved by the Planning Board in 1995) for forest planting, but there is currently no forest cover. Since the area is now part of the current application, it should be replanted in forest, to be consistent with the previously approved forest conservation plan.

The applicant proposes to protect the specimen Siberian Elm (41 inch diameter at breast height, or DBH) at the northeastern edge of the property. A tree protection plan proposed by a certified arborist identifies specific protection measures that should be implemented to save the elm. Staff recommends that the tree protection plan is incorporated into the Final Forest Conservation Plan.

No other individual tree that lies outside the environmental buffer area on the subject site is proposed for retention. Staff agrees with the applicant that these trees cannot be preserved, given the proposed project.

Staff finds that the Forest Conservation Plan, if it is revised in accordance with staff's recommendations, meets the requirements of the County Forest Conservation Law.

Environmental Buffer

The majority of the 1.6-acre environmental buffer will be used for forest retention or forest planting. A pedestrian path that parallels the internal private road is proposed to be located in a small portion (roughly 805 square feet, or 0.02 acre) of the western edge of the environmental buffer. The applicant indicates that the proposed commercial uses, parking requirements, the internal road configuration, and the desire to provide a pedestrian path system for the proposed residential units that are adjacent to the commercial uses, do not allow the path to be relocated outside the environmental buffer. Staff finds that the proposed encroachment is relatively minor, cannot be relocated outside the buffer, and is acceptable if the path is designed, constructed, and maintained as porous material, such as porous concrete.

The proposed development will create high imperviousness (roughly 49 percent imperviousness, including the RC portion of the site) in the drainage area of the headwater stream and wetlands that exist on the site. The high imperviousness could significantly reduce the groundwater flows to the headwater stream and wetland. To help maintain some water sources to the stream and wetland, the development includes the following features: a stormwater management (SWM) infiltration trench to provide some groundwater recharge of surface stormwater runoff, a surface sand filter, and discharge

into the wetland of stormwater runoff from the green roof of the grocery store.

A SWM facility is proposed to be located adjacent to a wetland within the environmental buffer. The grading for the proposed SWM facility is such that the bottom of the facility will be at a lower elevation than a portion of the wetland. Staff is concerned that this will cause groundwater and surface water to flow out of the wetland and into the SWM facility. Staff, therefore, recommends that the applicant submit a geotechnical study to identify how the proposed SWM facility design may be modified to prevent water from flowing out of the wetland into the SWM facility. In addition, staff recommends that the SWM facility design and construction is modified to incorporate the recommended measures from the geotechnical study; if the SWM facility is to be constructed by SHA, staff recommends that the applicant pay SHA for the design and construction modifications of the SWM facility.

Patuxent River Primary Management Area (PMA)

The imperviousness of the proposed subdivision and site plan (i.e., the parts of the site that are zoned R-60 and C-1), as proposed, is roughly 53.0 percent. The "Environmental Guidelines" state that for properties lying within the PMA which have zoning densities greater than RE-2 are subject to "nonconformance" requirements:

"Nonconformance requirements consist of stormwater management and best management practices applied to the property that will minimize the impacts of higher density zones, particularly higher levels of imperviousness, on water quality."

The applicant proposes SWM quantity and quality controls on the site. These controls include a dry pond that will be shared with SHA, a surface sand filter, infiltration trench, a green roof on the grocery store building, hydrodynamic structure, and an offsite SHA surface sand filter. The SWM concept has been reviewed and conditionally approved by the Department of Permitting Services (DPS).

It should be noted that, compared to the preliminary and site plan that had been previously submitted (preliminary plan no. 120050060 and site plan no. 820060230), the current proposal is lower in imperviousness. The previously submitted proposal had roughly 68 percent imperviousness over the C-1 and R-60 portions of the site. The current proposal is roughly 53.0 percent. Staff finds that the current proposal's restriction of commercial uses, including parking, to C-1 zoned land minimizes imperviousness, given the zoning.

The Planning Board's Environmental Guidelines recommend an imperviousness limit of 10 percent for transition areas that are zoned RE-2 or less dense. A transition area of the Patuxent River PMA is defined as the part of a property that lies outside an environmental buffer. The guidelines also state that "if a higher imperviousness is desirable in the transition area to maintain community character, achieve compatibility, and/or accomplish master plan goals, imperviousness may be averaged over the entire

development, not to exceed 10 percent on the entire site.”

For the RC portion of the site, the proposed imperviousness is roughly 13.5 percent. A large portion of the imperviousness is due to the access road for the stormwater management (SWM) facility that would lie on the southeastern portion of the site. To reduce imperviousness within the RC portion of the site, staff recommends that the access road is relocated so that the access to the SWM facility originates from the internal road within the commercial portion of the site. The realignment of this SWM access road may result in the reconfiguration of proposed Lot 5. The applicant has agreed to realign the road and has indicated that this change will result in a reduction of the imperviousness within the entire RC portion of the site to about 8.8 percent, or 11.4 percent within the Patuxent PMA transition area part of the RC zoned land. Staff believes the applicant’s proposed realignment of the SWM access road is acceptable. In addition, staff believes that the imperviousness of 8.8 percent calculated over the entire RC portion of the site is acceptable since the RC-zoned land includes an existing single family detached home, which is a use that is consistent with the master plan, as well as the proposed SWM facility and its access road, which are necessary infrastructure elements of the project.

Traffic Noise Impacts

The applicant proposes six single-family detached lots. A traffic noise study was conducted for these residential lots. The study indicates that Lot #1 (labeled in the study as Lot #3) will have future traffic noise levels in the backyard that exceed the recommended criterion of 60 dBA, Ldn. The study recommends a 6-foot high noise barrier.

The noise study also identifies that all of the proposed houses may be adversely impacted by interior noise levels that exceed the established guideline limit, depending on the specific designs of the houses. To determine if the interior noise level limit of 45 dBA, Ldn (established in staff’s transportation noise guidelines) can be met, the traffic noise study recommends that a building shell analysis of the proposed houses is conducted when architectural plans are available. Staff recommends that the building shell analysis is conducted prior to the issuance of building permits. In addition, staff recommends that the builder provide a written commitment that the houses will be constructed in accordance with the recommendations provided by the acoustical engineer in the building shell analysis.

RECOMMENDATION

Environmental Planning staff recommends approval of the preliminary plan of subdivision, site plan, and forest conservation plan with conditions.