
STAFF COMMENTS FOR PLANNING COMMISSION

MEETING DATE: December 6, 2006

FINAL PLAN: SP-05-0010

TITLE: THE TOWNS AT SUMMIT WOODS

**REQUEST: CONSENT APPROVAL
FINAL PLAN APPROVAL EXTENSION
130 Single Family Attached Units**

ADDRESS: 70 West Deer Park Drive

ZONE: R-20 (Medium Density Residential) TND Zone

APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER: (as applicable)

Applicants: RST Development
Engineer: VIKA, Charles Irish
Architect: Lessard Group, James McDonald
Property Owner: RST Development

STAFF PERSON: Rob Robinson, Planner

Enclosures:

Staff Comments

Exhibit 1: Location Map
Exhibit 2: Minutes from January 4, 2006 Planning Commission Hearing
Exhibit 3: Letter from Mr. Robert Harris, Holland & Knight, to Chairman Bauer requesting extension of approval: November 8, 2006.

STAFF COMMENTS

BACKGROUND:

The subject plan, SP-05-0010, received Final Site Plan Approval on January 4, 2006 for the redevelopment of the 9.273 acre parcel located at 70 West Deer Park Road.(Ex.1) The applicant, RST Development, proposed a 130 townhome unit infill development using the R-20 Zone Traditional Neighborhood Design (TND) option. The approval was subject to eleven (11) conditions. (Ex. 2)

The Applicant is requesting an extension of the approved plan SP-05-0010, pursuant to §24-173 (a) of the City Code. Section 24-173(a) states the following:

One or more of the uses proposed for land which is the subject of the site development plan shall be established on such land within three hundred sixty-five (365) days after the date of approval of the plan or the plan shall become void; provided, that the planning commission may extend such time upon request filed within such three hundred sixty-five (365) days and may grant further extensions upon request filed within the period of any extension; provided, that the total length of such extensions shall not exceed two (2) years.

The Applicant's representative has submitted a letter requesting an extension of the final site plan approval for SP-05-0010.(Ex.3) The letter for the extension of site plan SP-05-0010 was submitted within the 365-day period (January 4, 2007) per §24-173 (a). The Planning Commission may grant an extension for a one-year period.

CONCLUSION:

Staff recommends **CONSENT APPROVAL OF THE EXTENSION OF FINAL SITE PLAN APPROVAL REQUEST** of SP-05-0010 as it conforms with §24-173(a), retaining the previously approved conditions.

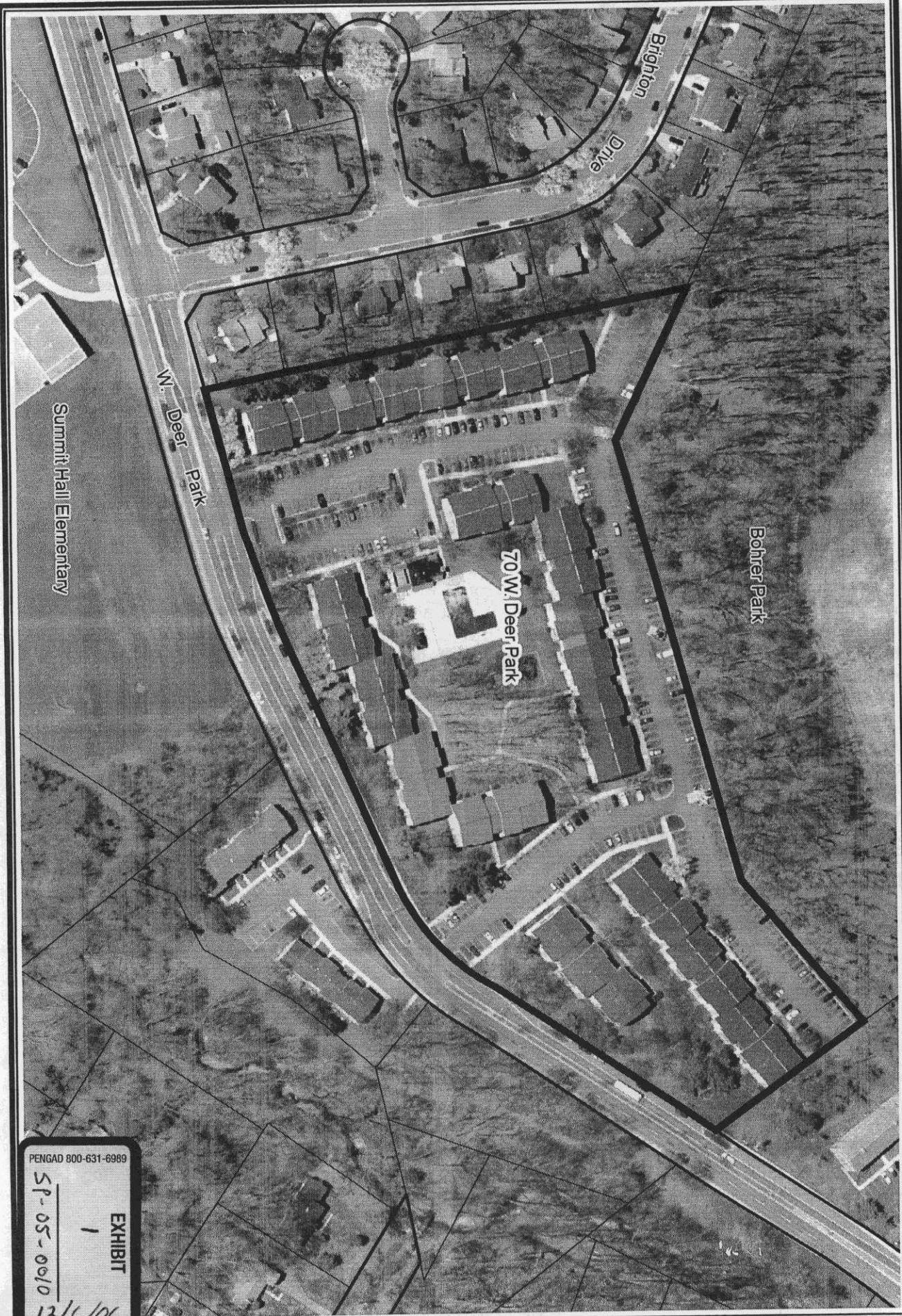
The Towns at Summit Woods SP-05-0010

Site Location Map

MD State Plane
HPGN NAD 83/91



City of Gaithersburg
Planning and Code Admin
31 S Summit Ave
Gaithersburg, MD 20877
(301) 258-6330
www.gaithersburgmd.gov



PENGAD 800-631-6989
EXHIBIT
1
SP-05-0010
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building listed in the Market Analysis (Exhibit 37, pg. 16) and requested it also be highlighted to the Mayor and Council. It was pointed out that both issues are included within the Plan exhibits, though not necessarily referenced in the resolution. Commissioner Kaufman, however, stressed the need for conveying to the Mayor and Council the importance of not losing the commercial component. Commissioner Hopkins agreed with Commissioner Kaufman and favored keeping the Plan as flexible as possible, noting that the office core should be encouraged as well.

Commissioner Hopkins moved, seconded by Commissioner Winborne, to APPROVE Resolution PCR-1-06 recommending adoption of MP-2-04 to the City Council.

Vote: 5-0

III. SITE PLAN

SP-05-0010 -- The Towns at Summit Woods R-20 Zone
 70 West Deer Park Road
 130 Townhouse Development
 AMENDMENT TO PRELIMINARY/FINAL PLAN REVIEW

Chair Bauer announced that the tenant relocation agreement had been executed, in compliance with a condition of preliminary plan approval. Planning and Code Administration Director Ossont briefly commented on that agreement and noted that it includes a provision whereby existing tenants will receive 3.5 months of rent at the market rate.

Planner Robinson noted the location of the property and provided a brief background regarding the previous plan approvals.

Attorney for the applicant, Erica Leatham, Holland & Knight, LLP, thanked staff for their assistance and thorough analysis of this project and voiced the applicant's agreement to the conditions recommended by staff.

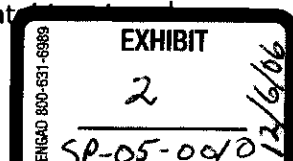
Architect for the applicant, James McDonald, Lessard Group, presented the proposed plan and discussed the changes since the last review, noting that the shifting of some of the units four feet northward requires an amendment to the previously-approved preliminary plan. He highlighted the advantages of the unit shift, noting additional landscaping along West Deer Park Road frontages, straightening the new alignments behind those units, and resolution of conflicts with public utility easements (PUE) and public improvement easements (PIE).

He discussed the final plan, presented streetscape renderings, and briefly reviewed again the unit types, landscaping and architectural features, as well amenities and parking, and noted that 37 key lots were created at the entrance to the community and along West Deer Park Road that include special architectural features to enhance the design of the plan.

The following was testimony from the public:

Kenneth Johoiske, 76 West Deer Park Road, identified himself as a member of the Deer Park Tenant Association, distributed information relating to the relocation plan, and voiced concerns about potential flooding due to the stream that runs under the property, and about providing an active play area for children of the new development.

Pete Exis, 76 West Deer Park Road #102; Stephanie Lilly, 72 West Deer Park Road #102; Franklin Tucker, 80 West Deer Park Road #101; and Joan Levy, 72 West Deer Park Road; voiced their concerns with the finalization of the relocation plan without the tenant



requested that long-term tenants receive four months' rent due to the additional expenses they will incur.

In response to Chair Bauer, Planner Robinson listed the changes in the amended preliminary plan, noting staff recommends its approval with no conditions, as the plan complies with Zoning Ordinance §§ 24-170 and 24-171. Regarding the proposed final site plan, Mr. Robinson voiced staff's recommendation of approval with conditions that he listed. In response to Commissioner Hopkins, Mr. Robinson provided clarification regarding the reforestation plan and a fee-in-lieu payment.

City Attorney Borten requested the addition of Condition 10 for an enforcement mechanism for the relocation plan. In response to Commissioner Levy, she indicated the Homeowners Association (HOA) would be responsible for alley maintenance via their covenants for common areas. Following discussion, the Commission concurred on an additional condition regarding identification of units in the Design Guidelines and Commissioner Hopkins noted the revised alley design and the Design Guidelines mission statement were satisfactory. In response to City Attorney Borten, the Commission referenced the pertinent City Code criteria for approval and indicated that the evidence supports the plan's compliance with them.

However, Commissioner Winborne voiced his discomfort with the way the Commission's preliminary plan approval condition relating to the relocation plan had been interpreted. Chair Bauer voiced his appreciation of the tenants' involvement in this process and commended the Planning Staff and the City Manager's Office for their work on the evolution of the project and the improvements to the original proposal.

Commissioner Levy moved, seconded by Commissioner Kaufman, to grant SP-05-0010 - The Towns at Summit Woods, AMENDMENT TO PRELIMINARY PLAN APPROVAL.

Vote: 5-0

Commissioner Levy moved, seconded by Commissioner Kaufman, to grant SP-05-0010 - The Towns at Summit Woods, FINAL PLAN APPROVAL, finding the plan in compliance with Zoning Ordinance §§ 24-170 and 24-171, with the following conditions:

1. Applicant shall obtain final forest conservation plan and landscape plan approval by the City's Environmental Specialist prior to the issuance of site development permits;
2. Applicant shall obtain final storm water management (SWM) plan approval by DPWPM&E prior to the issuance of site development permits;
3. Applicant shall obtain final sediment control plan approval by DPWPM&E prior to the issuance of site development permits;
4. Applicant shall obtain storm drain plans and profiles approval by DPWPM&E prior to issuance of site development permits;
5. Applicant is to provide peer review of design, construction drawings, and global stability analysis for the segmented retaining walls for approval by DPWPM&E prior to the issuance of site development permits;

6. Applicant is to provide a staging, milling, repaving, and reconstruction plan for the disturbance to West Deer Park Road to DPWPM&E for approval prior to the issuance of site development permits;
7. Applicant is to perform the repair of the crack on the existing retaining wall described on Page 3 of the Meyer Consulting Engineers Corp.'s consultation report prior to the issuance of site development permits;
8. Applicant is to submit a revised record plat to be approved by staff and submitted to Montgomery County Land Records;
9. HOA covenants, including SWM maintenance agreements, are to be reviewed by staff for approval prior to issuance of the first building permit;
10. Applicant is to enter into a binding agreement with the City Manager by 5:00 pm on January 13, 2006, to insure that the relocation plan approved by the City Manager on January 4, 2006, is enforceable. This agreement will not change the definition of current market rent or increase the amount of compensation West Deer Park residents are entitled to under the Relocation Plan dated January 4, 2006. It is anticipated that enforcement mechanisms that will be included in the binding agreement are for the City to withhold the issuance of various permits and the ability to seek relief from any court of competent jurisdiction; and
11. Applicant is to revise the Design Guidelines to add the numbers of each unit on Page 6 prior to the issuance of site development permits.

Vote: 5-0

IV. FROM THE COMMISSION

Commissioner Kaufman

1. Wished everyone a Happy New Year. The Commission shared his greetings.
2. Recommended visiting a new exhibit entitled "Cityscapes Revealed," that has opened at the National Building Museum, 401 F Street, N.W., Washington, D.C.

Commissioner Levy

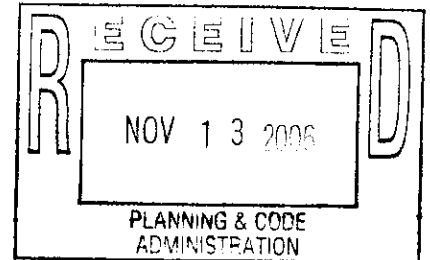
Asked the Commission if they wished Art Director Denise Kayser to make a presentation on the City's Art in Public Places Program. Commissioner Hopkins commented on the informative booklet and thorough additional information electronically provided to the Commission, noting that a presentation for general information at a Commission regular meeting is not needed at this time. The Commission concurred with Commissioner Hopkins.

Robert R. Harris
301 215 6607
robert.harris@hklaw.com

November 8, 2006

Via Facsimile and First Class Mail

Mr. John Bauer
Chairman
Gaithersburg Planning Commission
31 South Summit Avenue
Gaithersburg, MD 20877



Re: The Towns at Summit Woods (Site Plan No. SP-05-0010)
Extension of Site Development Approval

Dear Chairman Bauer:

We represent RST Development, LLC the Applicant in this proceeding. By Site Development Approval dated January 11, 2006, the City of Gaithersburg approved the referenced Site Plan for the development of 130 townhouse units on the subject property located at 70 West Deer Park Road. The purpose of this letter is to request a one year extension of that Site Development Approval pursuant to §24-173 of the City Code.

For a variety of reasons, RST Development has not been able to implement the Site Development Approval within the initial one-year approval period. Therefore, we respectfully request a one year extension of this approval. We have discussed with Staff, the circumstances for this request and can provide further information if required. In order to help RST decide a course of action for the property, we would appreciate action on this request by December 6, 2006.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Harris".

Robert R. Harris

cc: Mr. Greg Ossont
Mr. Scott Copeland

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