

Case No. SP-07034

Applicant: Jackson Shaw Brickyard, LP, LLLP

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ORDER AFFIRMING PLANNING BOARD DECISION, WITH CONDITIONS

IT IS HEREBY ORDERED, after review of the administrative record, that the decision of the Planning Board in PGCPB No. 08-78, to approve with conditions a detailed site plan for a MARC Planned Community consisting of 51 single-family detached houses, 354 townhouses, 860 multifamily apartment units, and a 29,787 square-foot retail/commercial office and other uses, for a project referred to as The Brick Yard, on property described as approximately 63.68 acres of land in the I-2 and I-3 zones, on Muirkirk Road, northeast of its intersection with US 1, Laurel, is:

AFFIRMED, for the reasons stated by the Planning Board, whose decision is hereby adopted as the findings of fact and conclusions of law of the District Council in this case.

Affirmance of the Planning Board's decision is subject to the following conditions:

1. Prior to certificate approval of this Detailed Site Plan, the applicant shall:
 - a. Reflect any applicable conditions attached to Preliminary Plan of Subdivision 4-07053 on the DSP.
 - b. Provide site plan notes as follows:
 - (1) The monopole shall be removed from the subject site when the existing lease expires. No additional lease shall be signed.
 - (2) The primary elevations facing the public right-of-way of mixed-use buildings on Parcel C and D shall be a minimum of 70% brick or stone finish. Interior courtyards shall have a minimum 50 percent of brick or stone finish.
 - (3) A minimum of 60 percent of the townhouses shall have 100 percent brick or stone facade, if the structure supports the use of brick or stone.

- (4) All single-family detached houses shall have brick or stone front elevation, if the structure supports the use of brick or stone.
- (5) Indicate on the site plans the maximum area on which each SFD may have a patio or deck. Indicate that any future addition within the confines of the patio/deck envelope approved with this DSP shall be deemed acceptable without further DSP review or approval. Further indicate the minimum green space that must be maintained on each SFD lot.
- (6) Indicate on the plans the minimum and maximum extent of front entry porches allowed on the SFD's. At least 50% of the SFD's shall have at least the minimum front porch.
- (7) Demonstrate that the parking structure use is obscured on all facades visible from the exterior of the building.
- (8) Modify the ground floor plans of the multi-family buildings to include more "Flex (retail/office/residential/amenity)" space as follows for the purpose of increasing the amount of non-residential space on the property:
 - a. On Parcel C (multi-family 1) extend the Flex space on the western façade north approximately 225 feet to the NW corner of the building.
 - b. On Parcel D (multi-family 2) extend the Flex space on the eastern façade north approximately 220 feet to the entrance to the parking garage.
- (9) Indicate that the multi-family buildings shall have white roofs and that the parking garages shall not have asphalt decks.
- (10) The applicant shall provide a letter from a LEED Accredited Professional certifying that the planned community has been designed to achieve the requirements to attain Certification under the US Green Building Council LEED ND (Neighborhood Design) Guidelines and would in fact attain such Certification if submitted.
- (11) Railroad noise control by building to an average sound transmission coefficient rating (STC) of at least STC 30 for the following facades on lots and parcels indicated on the approved Preliminary Plan 4-07053, in addition to those identified in the noise study:

- a. On the east side of the main Boulevard, north of the pond facades which face west onto the main boulevard (lots 128 to 132, lots 164 to 177);
 - b. On the north end of Multi-family-2 (Parcel D) facing the proposed restaurant pad (Lot 163).
- c. Provide the following information in accordance with the requirements of the *Landscape Manual*:
 - (1) Section 4.1 (d), (f) and (g), Section 4.2, 4.3, and 4.4 landscape schedules.
 - (2) Screening details in accordance with Section 4.4.
 - (3) A landscape schedule for the landscape strip along both sides of the PEPCO utility right-of-way, to be reviewed and approved by the Urban Design Section as the designee of the Planning Board.
 - (4) A landscape bufferyard along the site's boundary areas adjacent to CSX tracks in combination with the noise attenuation structure. The landscape schedule and the details of the noise mitigation structure shall be provided on the site plan.

Prior to certificate approval of the Detailed Site Plan, the applicant shall provide a plant schedule broken down by neighborhood blocks. The information shall quantify the amount of landscaping material provided within the development and shall constitute the regulations for this project. Any discrepancy between the planting materials provided and the requirements of the *Landscape Manual* shall not require approval of Alternative Compliance.

- d. Revise both the detailed site plan and landscape plan to relocate the building on Lot 302 to be a minimum of 40 feet away from the PEPCO utility right-of-way.
- e. Commission and pay for a report prepared by a professional Traffic Consultant that addresses pedestrian, vehicular and bicycle safety along Muirkirk Road from Route 197 to Virginia Manor Road for inclusion in the Subregion I Master Plan. The report shall include input from communities and residents along Muirkirk road that access this section of Muirkirk Road. Final report and recommendations will be provided for review by DPW&T and MNCPPC.
- f. Prior to certificate approval of the Detailed Site Plan, and in conjunction with DPW&T, the applicant shall implement the following traffic safety measures on Muirkirk Road:

- (1) The pavement shall be re-stripped to provide bike lanes on Muirkirk Road east of Old Baltimore Pike, as far as possible within the existing pavement section, but not less than to the east of the entrance of Longwood Drive.
- (2) Include in the design of Muirkirk Road's cross section, between the bridge at the CSX tracks and Old Baltimore Pike:
 - a. An eight-foot-wide sidewalk along the subject site's entire frontage of Muirkirk Road separated from the curb by a grass landscape strip, unless modified by DPW&T;
 - b. bike lanes; and
 - c. safe pedestrian accessibility and crossings at all intersections.
- g. All bike lanes are to be appropriately signed. Bike racks in sufficient quantity shall be placed at appropriate locations, after review and approval by the Urban Design Section.
- h. Provide the following revisions with respect to Cedarhurst Drive:
 - (1) A six-foot-wide sidewalk along the east side of the Cedarhurst Drive separated from the curb by a grass/landscape strip, unless modified by DPW&T.
 - (2) Existing Cedarhurst Drive will not be widened and the extension of Cedarhurst Drive terminated at the last point of access to Cedarhurst from the MARC Planned Community.
 - (3) There shall be no vehicular connection between Cedarhurst Drive and Mid Atlantic Boulevard.
 - (4) Bike lanes shall be striped and signed on both sides of Cedarhurst Drive.
 - (5) The existing sidewalk on Cedarhurst Drive shall be extended to the sidewalk from Mid Atlantic Boulevard shown on DSP 07050 as a 6' wide walk.
 - (6) The bike lanes on Cedarhurst Drive shall be combined north of the termination of Cedarhurst Drive and shall be connected to the Mid Atlantic Boulevard bike lanes via a clear trail that may incorporate the SWM pond access drive, a trail on private property or MNCPPC property. Bikeway signage shall be provided consistent with MNCPPC recommendations.

- i. Provide minimum six-foot-wide sidewalks along both sides of the roads within Parcel B and Parcel F and along the south side (Building 2) of the road in Parcel E, unless modified by DPW&T.
- j. Provide the pedestrian connection from the subject site to the adjacent MARC property, including the crosswalk details and pedestrian safety features indicated on the submitted DSP, unless modified by Department of Public Works and Transportation.
- k. Provide standard sidewalks along both sides of all internal roads (excluding alleys) unless modified by DPW&T.
- l. Provide sign face area for the proposed primary identification sign.
- m. Provide additional brick on the columns of the parking garage on the elevation facing the CSX tracks. Additional roof treatments such as pre-cast band shall be used to blend the roof line of the garage into the rest of the elevation.
- n. Submit a TCPII that covers the entire site that includes both the north and south portions.
- o. Eliminate woodland conservation from lots.
- p. Eliminate the individual tree symbols within all of the reforestation areas.
- q. After all these revisions have been made, have the qualified professional who prepared the plan sign and date it.
- r. Revise the Phase II Noise Study to include that along the western property line from the MARC station to north of the PEPCO property that there are adjacent outdoor activity areas which include; outdoor spaces in the multi-family building on Parcel D, the amenity pond and associated uses, the clubhouse and associated uses, the outdoor areas in front of and around the town house units and the rear yard areas of town houses and SFD's north of the PEPCO property. The study shall also be revised to include; height and proposed wall materials when sound attenuation is necessary. The study shall eliminate the reference to "daytime noise contours" in text and on drawings.

Any sound wall(s) shall be designed as an amenity to the site and must be integrated with the other proposed construction in such a way as to make it part of the overall concept. Transitions between varying heights of the wall shall be gradual. The materials shall be actual brick, or a brick like façade that mimics real brick with regard to texture and color, split face CMU and black aluminum picket, subject to the approval of the Planning

Director or designee. The proposed materials shall be clearly referenced on the DSP plans and in the report.

The DSP and TCP II shall reflect all of the recommendations of the revised noise study. The DSP and the TCP II shall show the location of the train whistle blast zone. If this whistle is found to encumber the entire site this may be handled as a note on the plans.

- s. The DSP shall be revised to reflect the following:
 - (1) a detailed plan and elevation of the continuous fence / wall proposed along the western project boundary from the MARC boundary to PEPCO;
 - (2) From the MARC station property to the volleyball court on Parcel H. The 'wall' shall function as visual screen of approximately 4 feet in elevation as viewed from the community looking west. It shall be of brick on both faces.
 - (3) From the volleyball court to the northern edge of parcel H. The 'wall' shall be a safety fence located west of the landscaped berm and reforestation area. Said fence shall be black aluminum picket design six feet in height.
 - (4) Between the northern edge of the pond and the PEPCO property the 'wall' shall become a sound wall. Its height, up to 10 feet above the community side grade, will vary to achieve the sound level reduction required for the outdoor green space of the town homes south of the PEPCO property. The wall shall be brick on the community face and buff colored split face block on the railroad face.
- t. Obtain additional approval by the Planning Board or designee for any changes to the building facades, if the building facades change from what was provided to and approved by the Planning Board on May 15, 2008, because of a need to provide additional noise attenuation.
- 2. The applicant and the applicant's heir, successors, and/or assignees shall complete the construction of the on-site recreational facilities and open them to the residents as follows:
 - a. Prior to issuance of the first Use and Occupancy permit for Multifamily Building 1 on Parcel C, recreational facility Number one, two and three as shown on the Recreational Facility Plan shall be completed.

- b. Prior to issuance of the first Use and Occupancy permit for Multifamily building two on Parcel D, recreational facility Number four, five, six and seven as shown on the Recreational Facility Plan shall be completed.
- c. Prior to issuance of the 225th building permit for single family dwellings, the community center and other amenities included in recreational facilities Number 8, 9 and 10 as shown on the Recreational Facility Plan shall be completed.
- d. Prior to issuance of the 16th building permit for the area containing Lots 218-245, recreational facility Number 11-pocket park as shown on the Recreational Facility Plan shall be completed.
- e. Prior to issuance of the 37th building permit for the area containing Lots 10-73, recreational facility Number 12 public terrace as shown on the Recreational Facility Plan shall be completed.
- f. Prior to issuance of the 13th building permit for the area containing Lots 22-46, recreational facility Number 13 pocket park as shown on the Recreational Facility Plan shall be completed.
- g. Prior to issuance of the 10th building permit for the area containing Lots 101-120, recreational facility Number 14 pocket park as shown on the Recreational Facility Plan shall be completed.
- h. Prior to issuance of the 168th building permit for the area containing Lots 10-301, recreational facility Number 15 central park as shown on the Recreational Facility Plan shall be completed.
- i. Prior to issuance of the 9th building permit for the area containing Lots 133-150, recreational facility Number 16 pocket park as shown on the Recreational Facility Plan shall be completed.
- j. Prior to issuance of the 11th building permit for the area containing Lots 198-217, recreational facility Number 17 public terrace as shown on the Recreational Facility Plan shall be completed.
- k. Prior to issuance of the 12th building permit for the area containing Lots 282-301, recreational facility Number 18 pocket park as shown on the Recreational Facility Plan shall be completed.
- l. Prior to issuance of the 14th building permit for the area containing Lots 378-401, recreational facility Number 19 pocket park as shown on the Recreational Facility Plan shall be completed.

- m. Prior to issuance of the 12th building permit for the area containing Lots 402-422, recreational facility Number 20 pocket park as shown on the Recreational Facility Plan shall be completed.
 - n. Prior to issuance of the 75th building permit for the area containing Lots 302-426, recreational facility Number 21,22 and 23 as shown on the Recreational Facility Plan shall be completed.
- 3. At time of the building permit for the townhouses, a tracking table shall be provided.
- 4. No two single-family units located next to or immediately across the street from each other may have identical front elevations.
- 5. The developer, his heirs, successors and/or assignees shall display in the sales office all of the plans approved by the Planning Board for this subdivision, including all exterior elevations of all approved models, the detailed site plan, Landscape Plan, and plans for recreational facilities.
- 6. Prior to issuance of the first building permit, the applicant and the applicant's heirs, successors, and/or assignees shall provide a financial contribution of \$210.00 to the DPW&T for the placement of "Share the Road with a Bike" signage, or provide proof of prior payment.
- 7. Prior to certificate approval of the Detailed Site Plan the applicant shall provide an exhibit depicting areas on the plan with 'Green Street' elements that help manage storm water quality. These elements are in addition to the stormwater management requirements satisfied by SWM Pond # 1:
 - a. Along the main boulevard the medians north of the first townhouse block will be rain gardens or bio-retention areas.
 - b. Where side streets are of sufficient elevation and have access to townhouse greens, the surface water shall be diverted to rain gardens or bio retention areas within the green.
 - c. A rain garden or bio retention area shall be added to the central park landscape plan.
 - d. A cistern or other water storage method will be used to collect, cool and re-use rain water from multi-family structures.
- 8. Within 90 days of signature approval of the DSP applicant shall employ the services of an environmental consultant to analyze Indian Creek degradation in the business/ industrial area between Muirkirk Industrial Park's pond and Powder Mill Road. The consultant's report is to:

- a. Identify pollution sources and propose possible source mitigation;
 - b. Identify and propose possible stream valley restoration alternatives; and
 - c. Propose prioritization and cost estimates for recommendations.
- 9. Prior to the approval of building permits for residential units that were identified in the Phase II Noise Study as needing building shell analyses for indoor noise mitigation, a certification by a professional engineer with competency in acoustical analysis shall be placed on the building permits stating that building shells of these structures have been designed to reduce interior noise levels to 45 dBA Ldn or less.
- 10. Prior to the issuance of building permits, provide written evidence indicating that all requirements of the Health Department as set forth in the letter dated March 6, 2008 to Thomas J. Aylward, III have been fulfilled on those lots for which permits are requested, or that a plan to implement such measures during construction has been agreed to by the Health Department.

Ordered this 22nd day of September, 2008, by the following vote:

In Favor: Council Members Dean, Bland, Dernoga, Exum, Harrison, Knotts and Olson

Opposed:

Abstained:

Absent: Council Members Campos and Turner

Vote: 7-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON
REGIONAL DISTRICT IN PRINCE GEORGE'S
COUNTY, MARYLAND

By: _____
Samuel H. Dean, Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council