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Preliminary Plan 4-06086 & VP-06086

Application	General Data
Project Name: NEW CARROLLTON TOWN CENTER TOWNHOUSE SECTION Location: Southeast quadrant of the intersection of Westbrook Drive and Legation Court. Applicant/Address: Luthra, Arun American Hospitality Management 8500 Annapolis Road New Carrollton, Maryland 20784	Date Accepted: 10/27/06
	Planning Board Action Limit: 01/20/07
	Plan Acreage: 2.04
	Zone: R-55
	Lots: 9
	Parcels: 2
	Planning Area: 69
	Tier: Developed
	Council District: 03
	Municipality: New Carrollton
	200-Scale Base Map: 207NE07

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION 9 townhouses and 8 stacked townhouse units Variance from the requirement for a minimum of 30 dwelling units (Section 27-441(b) Footnote 81).	Adjoining Property Owners Previous Parties of Record Registered Associations: 07/27/06 (CB-58-2003)
	Sign(s) Posted on Site and 02/20/07 Notice of Hearing Mailed:

Staff Recommendation		Staff Reviewer: Tom Lockard	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-06086
Variance VP-4-06086
New Carrollton Town Center Townhouse Section, Lots 1-9 and Parcels A-B.

OVERVIEW

The subject property is located on Tax Map 44, Grid A-3, and is known as Parcel 43. The property is approximately 2.04 acres in area and is zoned R-55. The applicant is proposing to subdivide the site into nine lots for townhouses and two parcels for eight stacked (two-over-two) condominium units, open space and private recreation. The lots would gain access from private streets connecting to a cul-de-sac extension of Westbrook Drive. The site has frontage on the Capital Beltway, but no access is proposed nor would it be permitted.

The site is being developed pursuant to a text amendment adopted by the District Council on November 29, 2005 (CB-97-2005). This Council Bill allows for single-family attached and multifamily uses on this property, subject to certain criteria including a requirement that the development be subject to detailed site plan review and include at least 30 but not more than 50 units. Because the applicant is proposing 17 dwelling units in this plan, a variance from Section 27-441(b) Footnote 81 is required.

In addition, the applicant seeks variations from Sections 24-130 and 24-121(4) for impacts to the Expanded Buffer and the requirement for 300-foot lot widths adjoining the Capital Beltway, respectively.

SETTING

The subject property is located at the southeast quadrant of the intersection of Westbrook Drive and Legation Court, extending through to the Capital Beltway. The site is undeveloped but was used for many years as a parking lot and is thus predominantly paved. Surrounding properties are developed with single-family residences on small lots in the R-55 Zone to the south and west. Farther south is the parcel developing as the New Carrollton Town Center with a mix of Hotel/Commercial Retail/Office and Residential (Multifamily) Condominium uses. To the north is a park owned by the City of New Carrollton. To the east is the ramp from the Capital Beltway to MD 450 (Annapolis Road).

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

Zone	EXISTING	PROPOSED
Use(s)	R-55 Undeveloped	R-55 9 Single-family Attached 8 Multifamily Units
Acreage	2.04	2.04
Lots	0	9
Outparcels	0	0
Parcels	1	2
Dwelling Units:	0	17
Public Safety Mitigation Fee		No

2. **Environmental**— The Environmental Planning Section recommends disapproval of the subject application due to a lack of required information for review. In previous memorandums dated December 13, 2006 and February 18, 2007 respectively, it was requested that additional information and revised plans be submitted at least 30 days prior to any Planning Board hearing. A summary of the required information and revisions included a revised detailed Letter of Justification to address proposed impacts to the expanded buffer and all other design options and the ramifications of those options; a copy of a Stormwater Management Concept Approval Letter and plans; and a revised preliminary plan and TCPI to address noise issues.

Revised plans were stamped as received on March 9, 2007 without a noise study or a Stormwater Management Concept Approval Letter with associated plans. A revised Letter of Justification was received but it did not contain a detailed evaluation of all other design options that would allow for a restoration of the stream buffer or the ramifications of the proposed location of the sewer line on the rear yards of the proposed town houses. A revised TCPI was submitted on March 9, 2007 however, the plan shows a concept for addressing the high levels of noise that is off of the subject property. This concept has not been evaluated for feasibility as this is the first plan to show a method to address noise issues raised in the memo dated December 13, 2006.

Staff did not have time to evaluate the new information received on March 9, 2007, two days after the referral was due to prepare a timely report to the Planning Board. As such, a recommendation of disapproval is the only viable option at this time.

Water and Sewer Categories

The water and sewer service categories are W-3 and S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003 and the site will therefore be served by public systems.

3. **Community Planning**—The property is within the limits of the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity*, Planning Area 69/Neighborhood 7. The master plan recommends retail commercial uses for the site. This application does not conform to the land use recommendations of the 1994 master plan; however, townhomes are permitted under certain conditions in the R-55 Zone per CB-97-2005. The 2002

General Plan places the site in the Developed Tier. The vision for the Developed Tier is a network of sustainable, transit-supporting, mixed-use, pedestrian-oriented, medium- to high-density neighborhoods. The proposed preliminary plan is consistent with the recommendations of the 2002 General Plan by providing a medium density residential use on the site.

4. **Parks and Recreation**—In accordance with Section 24-134 of the Subdivision Regulations, the Park Planning and Development Review Division recommends private recreational uses on the site. Private recreation is also called for in CB-97-2005, the text amendment that permits the proposed uses on this site.
5. **Trails**— There are no master plan trails issues identified in the 1994 *Approved Master Plan and Sectional Map Amendment for Bladensburg-New Carrollton and Vicinity*. There is no sidewalk on the portion of Westbrook Drive that connects to the subject site.
6. **Transportation**— Because of the amount of development proposed with this subdivision, staff did not require a traffic study to be submitted by the applicant. Counts at the signalized intersection of MD 450 and 85th Avenue were requested of the applicant and provided. Therefore, the findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

Growth Policy - Service Level Standards

The subject property is in the developed tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-service (LOS) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better is required in the developing tier.

Unsignalized intersections: The Highway Capacity Manual procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

Staff Analysis of Traffic Impacts

The signalized intersection of MD 450 and 85th Avenue is determined to be the critical intersection for the subject property. This intersection is the nearest major intersection to the site, and would serve most of the site-generated traffic. The submitted turning movement counts indicate that the critical intersection operates at Level-of-Service (LOS) A, with a critical lane volume (CLV) of 977, during the AM peak hour. During the PM peak hour, the intersection operates at LOS C with a CLV of 1,237.

The approved New Carrollton Town Center Detailed Site Plan, which is proposed to replace the existing 258-room hotel with 37,000 square feet of commercial retail, 37,000 square feet of office, and 104 hi-rise residential condominium units is in the immediate area and would also affect this critical intersection. Additionally, a 2 percent annual rate of through traffic growth along MD 450 has been assumed. With background growth added, the critical intersection would operate as follows: AM peak hour – LOS A, with a CLV of 981; PM peak hour – LOS C, with a CLV of 1,247.

With the development of 17 single family attached residences, the site would generate 13 AM (3 in and 10 out) and 14 PM (9 in and 5 out) peak-hour vehicle trips. Given this trip generation and distribution, staff has analyzed the impact of the proposal. With the site added, the critical intersection would operate as follows: AM peak hour – LOS A, with a CLV of 985; PM peak hour – LOS C with a CLV of 1,250. Therefore, the critical intersection operates acceptably under total traffic.

The plan proposes a cul-de-sac extension of the existing Westbrook Drive, which is acceptable. However, the existing geometric configuration where the proposed Cul-de-sac will be constructed does not provide for a smooth transition to the westbound portion of Westbrook Drive at its intersection with 85th Avenue. In order to make this connection desirable for general circulation in the area, staff recommends construction of transition lanes, if deemed appropriate by DPW&T, within the existing dedicated rights-of-way, to better accommodate the westbound traffic leaving this site or westbound oriented traffic on Legation Court.

Transportation Staff Conclusions

Based on the preceding findings, the Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with conditions in accordance with the above findings.

7. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for impact on school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and CB-30-2003 and CR-23-2003 and concluded the following.

Impact on Affected Public School Clusters

Affected School Clusters	Elementary School Cluster 7	Middle School Cluster 4	High School Cluster 4
Dwelling Units	17 sfd	17 sfd	17 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	4.08	1.02	2.04
Actual Enrollment	35,388	11,453	16,879
Completion Enrollment	218	52	105
Cumulative Enrollment	103.68	25.92	51.84
Total Enrollment	35,713.16	11,531.94	17,037.88
State-Rated Capacity	39,187	11,272	15,314
Percent Capacity	91.14%	102.31%	111.26%

Source: Prince George's County Planning Department, M-NCPPC, December 2005

These figures were correct on the day the referral was written. They are subject to change under the provisions of CB-30-2003 and CR-23-2003. Other projects that are approved prior to the public hearing on this project will cause changes to these figures. The numbers shown in the resolution will be the ones that apply to this project.

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between interstate highway 495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,671 and \$13,151 to be paid at the time of issuance of each building permit.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The Historic Preservation and Public Facilities Planning Section finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30-2003 and CB-31-2003 and CR-23-2003.

8. **Fire and Rescue**—The Historic Preservation & Public Facilities Planning Section has reviewed this subdivision plan for fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

The Prince George's County Planning Department has determined that this preliminary plan is within the required 7-minute response time for the first due fire station, West Lanham Hills, Company 28, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department.

Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

The Fire Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

9. **Police Facilities**—The subject property is located in Police District I. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on October 27, 2006.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	09/05/05-09/05/06	10.00	17.00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met on September 5, 2006.

The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

Pursuant to CR-69-2006, Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

10. **Health Department**—The Health Department reviewed the application and has no comments.
11. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan has been submitted to DPW&T for review but has not yet been approved. Development must be in accordance with an approved plan to ensure that development of this site does not result in on-site or downstream flooding.
12. **Historic Preservation**—A Phase I archeological survey is not recommended on this property. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. The property appears to have been previously impacted by construction of the Capital Beltway to the east, a subdivision to the west and a parking lot over most of its surface area. The surrounding area is also highly developed. However, the applicant should be aware that there are three historic resources within a one-mile radius of the subject property.

Moreover, Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies or federal permits are required for a project.

13. **Public Utility Easement**—The preliminary plan does not show the required ten-foot-wide public utility easement or such easements along the private roads. These easements must be shown on both the preliminary plan and the final plat.
14. **Variance Request for Section 27-441(b), Footnote 81**

Section 27-441(b), Footnote 81 of the Zoning Ordinance establishes additional requirements for townhouse and multifamily development in the R-55 Zone that were enacted specifically for the subject property. They are numerous, and include a requirement that the development include a requirement that the development be subject to detailed site plan review and include at least 30 but not more than 50 units. Because the applicant is proposing 17 dwelling units in this plan, a variance from Section 27-441(b) Footnote 81 has been requested. Variances may be granted provided the application meets the following criteria, contained within Section 27-230(a) of the Prince George's County Code.

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographical conditions, or other extraordinary situations or conditions;**

The property is a triangular parcel of land in the R-55 Zone. Although it is more than two acres in area, its irregular shape and lack of depth are physical peculiarities that constrain development of the site. Further, there are numerous easements for underground utilities that cross the site, some of which can not be relocated. These factors combine to create an extraordinary situation not generally applicable to other properties in the area.

(2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property;

The applicant has chosen a mixture of unit types (townhouses and stacked townhouses) that can not come near providing the density envisioned by the District Council in their approval of CB-97-2005. In order to meet the minimum of 30 units for this site, the applicant would have to add some type of multifamily units into the development mix. This approach was discussed with the applicant, but was rejected.

Given the possibility of a reasonable alternative (and perhaps a better choice of dwelling unit given this site's proximity to the Beltway ramp), staff must conclude that the applicant's decision to place 17 townhouse and stacked townhouse units on the site a self-inflicted hardship. A self-inflicted hardship cannot be considered an undue hardship that justifies the granting of a variance.

(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or master plan.

Granting this variance will allow for development even further removed from the retail commercial uses proposed for the site in the 1994 master plan. Although CB-97-2005 permits townhouse and multifamily uses under certain conditions in the R-55 Zone, it is at nearly twice the numbers being proposed in this plan. Since it does not help the proposed development conform to the master plan recommendation or to the modifying tenets of CB-97-2005, staff concludes that granting it would substantially impair the integrity of the master plan.

Staff does not support this variance request for these reasons.

15. **Variation Request: Section 24-121(a)(4)**— Section 24-121(a)(4) of the Subdivision Regulations requires the preliminary plan show a 300-foot lot depth adjacent to roadways of freeway or higher classification. None of the lots or parcels proposed in this application can meet this lot depth requirement. In fact, the subject property at its widest dimension is 290 feet in width, thus, any residential development of this site would require this variation.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests. Section 24-113(a) reads:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon the evidence presented to it in each specific case that:

- (1) **The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**
- (2) **The conditions on which the variations are based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

Comment: The 300-foot lot depth requirement is necessary to buffer buildings on lots from traffic noise. In this instance, greater buffering is to be provided by a substantial noise wall than would be offered by the increased lot depth. So long as the noise barrier is properly constructed and sited to reduce noise and vibration levels below mandated levels, there should be no detriment to public safety, health or welfare. As of the writing of this staff report, appropriate details regarding the size and placement of a noise barrier have not been provided. Due to the unusual shape and narrowness of the site, any residential development would require this variation.

- (3) **The variation does not constitute a violation of any other applicable law, ordinance or regulation; and**

Comment: Because the applicant is mitigating noise impacts from the Capital Beltway through additional means beyond the 300-foot lot depth and will have to obtain permits from other local, state, and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

- (4) **Because of the peculiar physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.**

Comment: The denial of this variation would result in a particular hardship in that it would result in the refusal of the applicant's ability to develop his property.

RECOMMENDATION

Staff recommends Disapproval due to the lack of information necessary to evaluate the environmental impacts to the site.

STAFF RECOMMENDS DISAPPROVAL OF THE TYPE I TREE CONSERVATION PLAN,
TCPI/51/06

STAFF RECOMMENDS DISAPPROVAL OF A VARIATION TO SECTION 24-130 OF THE
SUBDIVISION REGULATIONS.

STAFF RECOMMENDS DISAPPROVAL OF A VARIANCE TO SECTION 27-442(d) OF THE
ZONING ORDINANCE.