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Comprehensive Design Plan

CDP-9902-03 & CDP-9903-02

Application	General Data	
Project Name: Oak Creek Club Location: On the east and west sides of Church Road, approximately 2,800 feet south its intersection with Central Avenue (MD 214). Applicant/Address: Oak Creek Club Corporation 522 Church Road South Upper Marlboro, MD 20774	Planning Board Hearing Date:	05/05/11
	Staff Report Date:	04/20/11
	Date Accepted:	04/04/11
	Planning Board Action Limit:	N/A
	Plan Acreage:	892 / 33
	Zone:	R-L & L-A-C
	Dwelling Units:	N/A
	Square Footage:	N/A
	Planning Area:	74A
	Tier:	Developing
	Council District:	06
	Municipality:	N/A
	200-Scale Base Map:	201SE12

Purpose of Application	Notice Dates	
To amend Condition 27 of CDP-9902 as modified in CDP-9902/02 and Condition 30 of CDP-9903 as modified in CDP-9903/01 for the Oak Creek Club project regarding the trigger for commencing construction of the golf clubhouse.	Adjoining Property Owners Previous Parties of Record Registered Associations: (CB-12-2003)	11/30/10
	Sign(s) Posted on Site:	04/05/11

Staff Recommendation		Staff Reviewer: Ruth E. Grover, A.I.C.P. Phone Number: 301-952-4317 E-mail: Ruth.Grover@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Comprehensive Design Plan CDP-9902-03
Comprehensive Design Plan CDP-9903-02
Oak Creek Club

The Urban Design staff has reviewed the requested amendments to the comprehensive design plans for the subject properties and presents the following evaluation and findings leading to a recommendation of APPROVAL as described in the Recommendation section of this report. Comprehensive Design Plan CDP-9902 applies to the 892 acres of the site that are zoned Residential Low Development (R-L) and CDP-9903 applies to the 33 acres that are zoned Local Activity Center (L-A-C).

PUBLIC HEARING

In accordance with the comprehensive design plan (CDP) provisions of the Prince George's County Zoning Ordinance, a public hearing is scheduled before the Prince George's County Planning Board on May 5, 2011. The purpose of this hearing is to consider comprehensive design plan revisions for CDP-9902 and CDP-9903. The nature of the revisions is to amend Condition 27 of CDP-9902 as modified in CDP-9902/02 and Condition 30 of CDP-9903 as modified in CDP-9903/01 for the Oak Creek Club project regarding the trigger for commencing construction of the golf clubhouse.

INTRODUCTION

The Development Review Division of the Prince George's County Planning Department has coordinated a review of the subject application and presents findings and a recommendation to be acted upon by the Planning Board.

RECOMMENDATION SUMMARY

The Urban Design staff recommends APPROVAL of the comprehensive design plan revisions with the conditions stated in the Recommendation section below.

EVALUATION CRITERIA

The comprehensive design plan revisions were reviewed and evaluated for compliance with the following criteria:

- a. Conformance with the basic plans for Zoning Map Amendments A-8437, A-8578, and A-8579.
- b. The requirements of the Zoning Ordinance, specifically, Section 27-521 regarding required findings in a comprehensive design zone.

FINDINGS

Based on the analysis of the subject application, the Urban Design Section recommends the following findings.

1. **Location:** The subject property is located at the intersection of Oak Grove Road and Church Road, directly north of Oak Grove Road and directly east and west of Church Road, approximately 2,800 feet south of the intersection of Church Road and Central Avenue (MD 214). The facility that is the subject of this application, the golf course clubhouse and its attendant parking, are located east of Church Road in the central northern section of the site and are bounded to their north by open space that is zoned Residential-Agricultural (R-A) and Residential-Estate (R-E), and to their east, west, and south by other portions of the Oak Creek development.
2. **The Subject Development:** The comprehensive design plans, as approved, include a maximum of 1,148 dwelling units (877 single-family detached and 271 single-family attached) on approximately 923 acres. The housing is to be organized into 11 development pods, which are to be located on both the east and west sides of Church Road. The R-L-zoned portion of the development is proposed to consist of 1,096 dwelling units (877 single-family detached and 219 single-family attached) on approximately 890 acres. The L-A-C-zoned portion is proposed to provide for the remaining 52 single-family detached units. An 18-hole championship golf course is integrated into the residential communities on the remaining 33 acres. The Permit Review Section has informed staff that 606 building permits have been approved for the development, while 46 are on hold as a result of the comprehensive design plan conditions discussed herein.
3. **Background:** On November 26, 1991, the Prince George's County District Council approved the basic plans for Zoning Map Amendments A-8427, A-8578, and A-8579 (County Council Resolution CR-120-1991) for the subject property. This zoning map amendment rezoned the property from the R-A and R-R (Rural Residential) Zones to the R-L and L-A-C Zones. On July 24, 2000, the District Council approved amended basic plans for Zoning Map Amendments A-8427, A-8578, and A-8579 (Zoning Ordinance No. 11-2000) for Oak Creek Club. The amended basic plans provided for generally the same number of residential units and types of recreational/public amenities, but included an 18-hole golf course. The basic plans are subject to 49 conditions and 10 considerations.
4. **Comprehensive Design Plans:** Comprehensive Design Plan CDP-9902 was approved by the Planning Board on September 6, 2001. The Planning Board then adopted PGCPB Resolution No. 01-180 formalizing the approval on December 20, 2001. Subsequently, the District Council chose to call up the case and approved it with conditions on May 13, 2002. The first revision to that comprehensive design plan, CDP-9902/01, was approved by the Planning Board on June 22, 2006

to reduce the attached single-family dwelling unit side yard setback from five to zero feet. A second revision to that approval, CDP-9902/02, was approved by the Planning Board on September 13, 2007 to combine the community building and golf course clubhouse into a single facility, and to amend the recreational facilities location and schedule. The Planning Board subsequently adopted PGCPB Resolution No. 07-172 formalizing that approval on October 4, 2007.

Comprehensive Design Plan CDP-9903 was approved by the Planning Board on December 20, 2001. Subsequently, the District Council chose to call the case up and a hearing was held on April 22, 2002. On May 13, 2002, the District Council approved the application with additional conditions and, on May 24, 2002, the District Council adopted an order affirming the Planning Board's decision with additional conditions. Comprehensive Design Plan CDP-9903/01 was approved by the Planning Board together with CDP-9902/02 to combine the community building and golf course clubhouse into a single facility, and to amend the recreational facilities location and schedule. The Planning Board subsequently adopted PGCPB Resolution No. 07-173 formalizing that approval on October 4, 2007.

In November 2010, the Planning Department became aware that the developer had not complied with the CDP conditions requiring commencement of construction of the golf clubhouse by March 2010. At that point, the Planning Department discontinued approval of any additional building permits at Oak Creek until the situation was rectified.

In a letter dated March 22, 2011, the developer notified the Oak Creek Board of Directors that it was shutting its offices at Oak Creek at close of business on March 25, 2011.

5. **The Request and Proffered Justification:** In a letter dated March 31, 2011, the applicant requested an amendment to Condition 27 of CDP-9902 as modified in Condition 1 of CDP-9902/02 and Condition 30 of CDP-9903 as modified in Condition 1 of CDP-9903/01 for the Oak Creek Club project regarding the trigger for commencing construction of the golf clubhouse. The condition (identical in both comprehensive design plan approvals) requires in a chart entitled "Oak Creek Club Phasing of Amenities" that the applicant "commence construction" of the golf clubhouse "prior to the 850th building permit or March 2010, whichever is sooner." The applicant seeks to modify the wording of the condition to strike "or March 2010, whichever is sooner," making the trigger only the issuance of the 850th building permit, without reference to any particular date.

The applicant's proffered justification, contained in a letter dated March 31, 2011, for the proposed revision to the conditions is stated below:

"The development is a victim of a harsh economy. To clarify the situation, the Golf Course Owner/Operator is contractually obligated to construct the clubhouse, not the Applicant/Developer. The applicant and community are punished by the Golf Course Owner's inability to perform, through the withholding of building permits. The Applicant's builders have not been able to sell anywhere close to the required amount (number) of homes that would make building the clubhouse financially feasible. To enforce this requirement to build the clubhouse, at this point and in this economy, would place an unreasonable burden on the Applicant, who cannot build the clubhouse unilaterally as it is to be on the golf course, which is not under the Applicant's ownership."

Comment: A community building on homeowners association (HOA) land for the exclusive use of the homeowners was required in the original CDP approvals in 2002. In 2007, the applicant received approval of a request to merge the separate community building and the golf clubhouse in a single clubhouse structure of at least 25,000 square feet. At that point, the developer's responsibility for construction of a facility for the homeowners became a contractual obligation of the owner/operator of the golf course.

"If the Golf Course Owner/Operator or even the Applicant were to build the clubhouse at this moment, the maintenance burden on the staff members would be enormous as there are only 40 to 50 members. In order to make the clubhouse financially feasible to maintain, it will require a minimum threshold of golf members. The development has not met the minimum threshold of golf members to make the maintenance of a clubhouse reasonable."

Comment: It is reasonable to provide the developer and golf course owner/operator more time to sell additional homes and generate additional golf members to help make construction and maintenance of the clubhouse more feasible. It is questionable that current residents should be required to wait until issuance of the 850th building permit, as proposed by the applicant, for construction of the clubhouse to begin. It would likely take several years even with improving market conditions for this threshold to be met.

"Cash flow is the lifeblood of residential development. Without access to building permits, the Applicant does not have any cash flow to finish the project. Thus, to ensure the future success of this development, the Applicant's builders need to be able to pull building permits and sell homes."

Comment: The applicant's assertion here is accurate and staff is in sympathy with the need for cash flow to enable completion of the remaining phases of construction of the development. Therefore, staff is recommending that the Planning Board approve a revision to the trigger to commence construction of the golf clubhouse until the issuance of the 850th building permit or March 1, 2012, two years after the original deadline of March 2010. An adjustment of this type should allow the 46 building permits currently on hold to be released (if no other unresolved issues stand in the way), for new building permits to be applied for and released, for home sales to be completed, and cash flow generated.

"The sole purpose of this application is to revise the previously mentioned conditions. The revision of these conditions will in no way detract from the Planning Board's previous findings that the required findings in these CDPs have been met. Thus, the Applicant would like to incorporate the relevant portions of the previously approved Statement of Justifications in order to meet the required findings for this revision to the CDPs."

Comment: Staff has specified in Finding 6 below their recommendation that the Planning Board make the required findings for the approval of the subject comprehensive design plans, pursuant to Section 27-521 of the Zoning Ordinance. Therefore, it is not necessary to incorporate "the relevant portion of the previously approved Statement of Justifications."

6. **Requirements of the Zoning Ordinance:**

- a. **The requirements of the Zoning Ordinance in the R-L and the L-A-C Zone**—The proposed revisions are in accordance with the requirements of Section 27-514.09, Uses Permitted in the R-L Zone; Section 27-514.10, Regulations in the R-L Zone; Section 27-495, Uses Permitted in the L-A-C Zone; and Section 27-496, Regulations in the L-A-C Zone, of the Zoning Ordinance.
- b. **Findings Required by Section 27-521 of the Zoning Ordinance**—The following findings, required by the Zoning Ordinance to be made prior to Planning Board approval of a comprehensive design plan, were made at the time of the original approval. Each required finding is listed below (in part) in boldface type. Staff comment follows, detailing how the subject proposal does not affect such finding.

(1) The plan is in conformance with the approved basic plan;

Comment: The proposed revision will not affect the previous finding that the subject comprehensive design plans are in conformance with the requirements of the applicable basic plans.

(2) The proposed plan would result in a development with a better environment than could be achieved under other regulations;

Comment: The proposed revisions will not substantially affect the previous finding that the subject proposed plans would result in a development with a better environment than could be achieved under other regulations.

(3) Approval is warranted by the way in which the comprehensive design plan includes design elements, facilities, and amenities, and satisfies the needs of the residents, employees, or guests of the project;

Comment: The proposed revisions will not substantially affect the previous finding that approval is warranted by the way in which the comprehensive design plans include design elements, facilities, and amenities and satisfy the needs of the residents, employees, or guests of the project.

(4) The proposed development will be compatible with existing land use, zoning, and facilities in the immediate surroundings;

Comment: The proposed revision will not substantially affect the previous finding that the proposed development will be compatible with existing land use, zoning, and facilities in the immediate surroundings.

(5) Land uses and facilities covered by the comprehensive design plan will be compatible with each other in relation to:

- (A) Amounts of building coverage and open space;**
- (B) Building setbacks from streets and abutting land uses; and**
- (C) Circulation access points.**

Comment: The proposed revision will not substantially affect the previous finding that land uses and facilities covered by the comprehensive design plans will be compatible with each other in relation to amounts of building coverage and open space, building setbacks from streets, abutting land uses, and circulation access points.

- (6) **Each staged unit of the development (as well as the total development) can exist as a unit capable of sustaining an environment of continuing quality and stability;**

Comment: The proposed revision will not substantially affect the previous finding that each staged unit of the development (as well as the total development) can exist as a unit capable of sustaining an environment of continuing quality and stability.

- (7) **The staging of development will not be an unreasonable burden on available public facilities;**

Comment: The proposed revision will not affect the previous finding that the staging of development will not be an unreasonable burden on available public facilities.

- (8) **Where a Comprehensive Design Plan proposal includes an adaptive use of a Historic Site, the Planning Board shall find that:**

- (A) **The proposed adaptive use will not adversely affect distinguishing exterior architectural features or historic landscape features in the established environmental setting;**
- (B) **Parking lot layout, materials, and landscaping are designed to preserve the integrity and character of the historic site;**
- (C) **The design, materials, height, proportion, and scale of a proposed enlargement or extension of a historic site, or of a new structure within the environmental setting, are in keeping with the character of the historic site;**

Comment: The proposed revision will not affect the previous finding that no adaptive use of a historic site is proposed in the comprehensive design plan.

- (9) **The plan incorporates the applicable design guidelines set forth in Section 27-274 of Part 3, Division 9, of this Subtitle, and where townhouses are proposed in the plan, with the exception of the V-L and V-M Zones, the requirements set forth in Section 27-433(d); and**

Comment: The proposed revision will not affect the previous finding that the plans incorporate the applicable design guidelines set forth in Section 27-274 of Part 3, Division 9 of the Zoning Ordinance and, since townhouses are proposed and the zone is not V-L (Village-Low) or V-M (Village-Medium), the requirements set forth in Section 27-433(d).

- (10) **The Plan is in conformance with an approved tree conservation plan.**

Comment: The proposed revisions will have no affect on the applicable tree conservation plan and, therefore, it will not affect the previous finding that the plans are in conformance with an approved tree conservation plan.

(11) The plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

Comment: The proposed revisions will have no impact on regulated environmental features. Preservation and/or restoration of all environmental features will continue to be in conformance with regulations in effect at the time of the original approvals.

RECOMMENDATION FOR COMPREHENSIVE DESIGN PLAN CDP-9902-03

Based upon the preceding evaluation, the Urban Design Section recommends that the Planning Board adopt the findings of this report and APPROVE Comprehensive Design Plan CDP-9902-03 for Oak Creek Club with the following conditions:

1. That Condition 27 of the approval of CDP-9902, as revised by CDP-9902/02, be amended to read as follows (additions are indicated by underline and deletions by “strike-through”):

OAK CREEK CLUB PHASING OF AMENITIES		
FACILITY	BOND	FINISH CONSTRUCTION
Golf Course	N/A	Complete by 287th building permit
Swim/Tennis Center	Prior to 250th building permit	Complete by 500th building permit
Swimming Pool	Prior to 250th building permit	Complete by 500th building permit
Two (2) Tennis Courts	Prior to 250th building permit	Complete by 500th building permit
8-foot-wide Asphalt Trail System (not on public park land)	Prior to 250th building permit	Complete by 800th building permit
Golf Clubhouse	N/A	Commence construction prior to the 850th building permit or March 2010 <u>March 1, 2012</u> , whichever is sooner (permits may be suspended for noncompliance)
*It is occasionally necessary to adjust the precise timing of the construction of recreational facilities as more details concerning grading and construction details become available. Phasing of the recreational facilities may be adjusted by written permission of the Planning Board or its designee under certain circumstances, such as the need to modify construction sequence due to exact location of sediment ponds or utilities, or other engineering necessity. The number of permits allowed to be released prior to construction of any given facility shall not be increased by more than 25 percent, and an adequate number of permits shall be withheld to assure completion of all of the facilities prior to completion of all the dwelling units.		

The originally recommended community building and the proposed golf course clubhouse shall be satisfied by providing a golf clubhouse structure of at least 25,000 square feet on the golf course property.

RECOMMENDATION FOR COMPREHENSIVE DESIGN PLAN CDP-9903-02

Based upon the preceding evaluation, the Urban Design Section recommends that the Planning Board adopt the findings of this report and APPROVE Comprehensive Design Plan CDP-9903-02 for Oak Creek Club with the following conditions:

1. That Condition 30 of the approval of CDP-9903, as revised by CDP-9903-01, be amended to read as follows (additions are indicated by underline and deletions by “strike-through”):

OAK CREEK CLUB PHASING OF AMENITIES		
FACILITY	BOND	FINISH CONSTRUCTION
Golf Course	N/A	Complete by 287th building permit
Swim/Tennis Center	Prior to 250th building permit	Complete by 500th building permit
Swimming Pool	Prior to 250th building permit	Complete by 500th building permit
Two (2) Tennis Courts	Prior to 250th building permit	Complete by 500th building permit
8-foot-wide Asphalt Trail System (not on public park land)	Prior to 250th building permit	Complete by 800th building permit
Golf Clubhouse	N/A	Commence construction prior to the 850th building permit or <u>March 2010</u> <u>March 1, 2012</u> , whichever is sooner (permits may be suspended for noncompliance)
*It is occasionally necessary to adjust the precise timing of the construction of recreational facilities as more details concerning grading and construction details become available. Phasing of the recreational facilities may be adjusted by written permission of the Planning Board or its designee under certain circumstances, such as the need to modify construction sequence due to exact location of sediment ponds or utilities, or other engineering necessity. The number of permits allowed to be released prior to construction of any given facility shall not be increased by more than 25 percent, and an adequate number of permits shall be withheld to assure completion of all facilities prior to the completion of all the dwelling units.		

The originally recommended community building and the proposed golf clubhouse shall be satisfied by providing a golf clubhouse structure of at least 25,000 square feet on the golf course property.