



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

MCPB
Item #
05/17/07

MEMORANDUM

DATE: May 3, 2007

TO: Montgomery County Planning Board

FROM: Catherine Conlon, Supervisor *CC*
Development Review Division
(301) 495-4542

SUBJECT: Informational Maps and Summary of Record Plats for the Planning Board
Agenda for May 17, 2007

The following record plats are recommended for APPROVAL, subject to the appropriate conditions of approval of the preliminary plan and site plan, if applicable, and conditioned on conformance with all requirements of Chapter 50 of the Montgomery County Code. Attached are specific recommendations and copies of plat drawings for the record plat. The following plats are included:

220070450 – Kentsdale Estates (1)

PLAT NO. 220070450

Kentsdale Estates (Preliminary Plan: Kentsdale Estates)

Located in the northwest quadrant, intersection of Democracy Boulevard and Stapleford Hall Drive

RE-2 zone; 12 Lots

Community Water, Community Sewer

Master Plan Area: Potomac

MTR Democracy Development, LLC, Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 120060200, as approved by the Board and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan, pending the following condition:

- 1) Applicant to record a "Declaration of Easements and Covenants" for the Limited Public Access Easement, shown as Yellow Rose Court, among the Land Records of Montgomery County, and note the requisite Liber/Folio on the record plat prior to recordation.

RECORD PLAT REVIEW SHEET

Plan Name: Kentsdale Estates Plan Number: 120060200
 Plat Name: Kentsdale Estates Plat Number: 220070450
 Plat Submission Date: 10/12/06
 DRD Plat Reviewer: Taslim Alam
 DRD Prelim Plan Reviewer: C. Conlon

Initial DRD Review:

Signed Preliminary Plan - Date 11/22/06 Checked: Initial CAE Date 5/3/07
 Planning Board Opinion - Date 9/20/06 Checked: Initial TA Date 10/25/06
 Site Plan Req'd for Development? Yes No Verified By: TA (initial)
 Site Plan Name: NA Site Plan Number:
 Planning Board Opinion - Date Checked: Initial Date
 Site Plan Signature Set - Date Checked: Initial Date
 Site Plan Reviewer Plat Approval: Checked: Initial Date

Review Items: Lot # & Layout Lot Area Zoning Bearings & Distances
 Coordinates Plan # Road/Alley Widths Easements OK Open Space OK
 Non-standard BRLs N/A Adjoining Land OK Vicinity Map Septic/Wells N/A
 TDR note N/A Child Lot note N/A Surveyor Cert Owner Cert Tax Map

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment	<u>S. Fedex/line</u>	<u>10-25-06</u>	<u>11-10-06</u>	<u>1-29-07</u>	<u>OK</u>
Research	Bobby Fleury	<u> </u>	<u> </u>	<u>10-26-06</u>	<u>OK</u>
SHA	Doug Mills	<u> </u>	<u> </u>	<u> </u>	<u>NC</u>
PEPCO	Steve Baxter	<u> </u>	<u> </u>	<u> </u>	<u>NC</u>
Parks	Doug Powell	<u> </u>	<u> </u>	<u> </u>	<u>NC</u>
DRD	Steve Smith	<u> </u>	<u> </u>	<u> </u>	<u>Street Name/Mylar Size</u>

Final DRD Review:

DRD Review Complete:

(All comments rec'd and incorporated into mark-up)

Engineer Notified (Pick up Mark-up):

Final Mylar w/Mark-up & PDF Rec'd:

Board Approval of Plat:

Plat Agenda:

Planning Board Approval:

Chairman's Signature:

DPS Approval of Plat:

Engineer Pick-up for DPS Signature:

Final Mylar for Reproduction Rec'd:

Plat Reproduction:

Addressing:

File Card Update:

Final Zoning Book Check:

Update Address Books with Plat #:

Update Green Books for Resubdivision:

Notify Engineer to Seal Plats:

Engineer Seal Complete:

Complete Reproduction:

Sent to Courthouse for Recordation:

Initial

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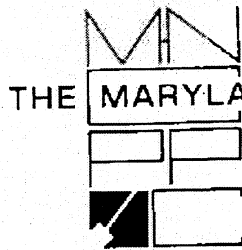
Date

5-3-0710-10-064-26-07 5-17-07 No.



4.	APP	TH	APP	—	MNC
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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

Date Mailed: SEP 20 2006

Hearing Date: June 29, 2006

Action: Approved Staff
Recommendation

Motion of Commissioner Robinson,
seconded by Commissioner Bryant,
with a vote of 4-0;
Chairman Berlage and Commissioners
Perdue, Bryant, and Robinson voting in
favor. Commissioner Wellington
necessarily absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 120060200
NAME OF PLAN: Kentsdale Estates

The date of this written opinion is SEP 20 2006 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

I. INTRODUCTION

On August 18, 2005, Democracy Investment L.L.C. ("Applicant"), submitted an application for the approval of a preliminary plan of subdivision of property in the RE-2 zone. The application proposed to create 12 lots on 28.7 acres of land located on the north side of Democracy Boulevard at the intersection with Stapleford Hall Drive in Potomac ("Property"). The application was designated Preliminary Plan 120060200 ("Application"). On June 29, 2006, Preliminary Plan 120060200 was brought before the Montgomery County Planning Board for a public hearing ("Hearing"). At the Hearing, the

Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for the Application ("Record") closed at the conclusion of the Hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the Application; all correspondence and any other written or graphic information concerning the Application received by the Planning Board or its staff following submission of the Application and prior to the Board's action at the conclusion of the Hearing, from the Applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the Application, prior to the Board's action following the Hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the Hearing.

II. SITE DESCRIPTION AND SURROUNDING AREA

The Property consists of 28.7 acres located on the north side of Democracy Boulevard west of its intersection with Stapleford Hall Drive. The Property is zoned RE-2 and consists of two parcels, one of which is recorded. There are two existing structures on the Property, which will both be removed. The Property is surrounded on the north, east and south sides by residential lots in the RE-2 zone. The Bullis School is located on the western boundary of the site.

The Property lies within the Cabin John Creek watershed (Water Use Classification I), and is split from northwest to south, and north to south by two tributary streams. The stream buffers associated with these two streams significantly impact the overall developable area of the property. The Property does not contain any existing forest, but there are several large trees along the streams and along the Democracy Boulevard property frontage.

III. PROJECT DESCRIPTION

The Application proposes to create a residential community with 12 dwelling units distributed on the Property in a manner, which preserves the existing stream valley buffers. Lot sizes range between 2.06 and 3.87 acres. The plan incorporates proposed protection measures to preserve several individual trees, and incorporates large forest planting areas along both stream valleys.

Access for vehicles will be provided via both shared and private driveways from Democracy Boulevard and Stapleford Hall Drive and by a private street from Democracy Boulevard. The proposed lots will be served by public water and sewer. A

shared-use trail will be constructed by the Applicant along the Democracy Boulevard frontage of the site.

IV. SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Development Review Staff ("Staff") recommended approval of the Application in its memorandum dated June 13, 2006 ("Staff Report"). Staff presented its findings consistent with the Staff Report at the Hearing. The Applicant appeared at the Hearing represented by legal counsel, who advised the Board that the Applicant supported the Staff recommendation. No other party testified in support of or in opposition to the Application. Staff advised the Board that the Applicant shared details of the proposal with the local neighborhood alliance, which did submit a letter of support into the Record.

V. FINDINGS

Having given full consideration to the recommendations of its Staff, which the Board hereby adopt and incorporate by reference; the recommendations of the applicable public agencies¹; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds, based on uncontested evidence of record that:

- a. *The Preliminary Plan No. 120060200 substantially conforms to the Potomac Master Plan.*

The Potomac Master Plan does not specifically identify the subject property for discussion but does give general guidance and recommendations regarding zoning and land use. The Master Plan recommends that this area maintain the existing zoning as adopted and maintain the residential land use consisting of one-family detached homes. The proposed subdivision complies with the recommendations adopted in the Master Plan in that it is a request for residential development and is consistent with the Zoning Ordinance development standards for the RE-2 zone.

The 2005 Countywide Bikeways Functional Master Plan recommends a dual bikeway along Democracy Boulevard, consisting of both an off-road, shared-use path along the north side, as well as on-road accommodation in the form of shared travel lanes and shoulders providing bike use. The Applicant will

¹ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

construct an eight-foot wide, shared-use path along the property frontage as described in the June 14, 2006 Transportation Planning staff memo. The Board finds that this path will facilitate safe pedestrian access around this site and substantially conforms to the master plan recommendation.

- b. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

The development is not anticipated to generate more than 30 peak-hour trips and is, therefore, not subject to Local Area Transportation review.

- c. *The size, width, shape, and orientation of the proposed lot are appropriate for the location of the subdivision.*
- d. *The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.*

Staff informed the Board that the Property contains no forest but does include several significant individual trees that are 24 inches or more in diameter and the individual trees are located in the stream valleys and along the property frontage. The Board finds that the site layout has been designed to maximize the level of protection afforded to the trees and the on-site stream buffers. Staff advised the Board that the Applicant will provide 8.83 acres of afforestation within the on-site stream buffer area, which will exceed the minimum forest conservation law requirements.

- e. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*
- f. *Pursuant to Montgomery County Code § 59-C-1.34.1, the private cul-de-sac (1) provides safe and adequate access to the proposed lots; (2) has sufficient width to accommodate the dwelling units proposed; (3) will better protect significant environmental features on and off site than would a public road; and (4) has proper drainage.*

Staff advised the Board that it had concluded that the proposed private street meets the above-specified statutory criteria. Based on evidence of record, and the Staff's analysis in the Staff Report, the Board finds that the private street: will provide safe and adequate access to the proposed houses for vehicles, including fire and rescue; will be built to meet the minimum width

and structural requirements of a public road; will be designed to provide proper drainage; and facilitates better protection of the environmental buffers because it permits the roadway to be constructed through the proposed lots, and will improve the roadway and house alignments in relation to the streams, avoids stream crossings, and the entire stream buffer is available for forest planting.

- g. *The proposed lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood (delineated in the Staff Report) ("Neighborhood"), as analyzed below.*

Size: The existing lots range in size from 87,120 square feet to 599,821 square feet. The largest lot is a recorded portion of the adjacent Bullis School. When this extraordinarily large non-residential lot is excluded, the lots in the Neighborhood range between 87,120 and 137,314 square feet in size. The proposed lots range in size from 87,398 to 168,680 square feet. One proposed lot will be larger in size than the Neighborhood range; however, the Board finds that such a difference in size is not significant in larger-lot zones, such as the RE-2 Zone. That lot's acreage includes stream buffer area, which cannot be developed; and, therefore, the lot will not seem larger than others in the Neighborhood. The other proposed lots are consistent in size with the existing lots in the Neighborhood.

Width: The existing lots range in width from 80.91 feet to 338.51 feet. As noted in the data table in the Staff Report, the widths of existing lots were measured at the established building restriction lines. Therefore, the two lots with the smallest widths, 80.91 feet and 99.24 feet, respectively, reflect existing house locations. The lots themselves meet the minimum width requirement of 150 feet in the RE-2 zone. The proposed lots range in width from 150 feet to 439.46 feet. The proposed lots substantially fall within the range of widths in the Neighborhood. The difference in widths--i.e., two proposed lots that are larger than lots in the Neighborhood--is the result of a significant amount of stream buffer on the lots. The actual widths of the lots within which a house could be located is very much in keeping with the range of lots in the Neighborhood.

Frontage: The existing lots range in frontage from 25 feet to 325.24 feet. The proposed lots range in frontage from 25 feet to 555.93 feet. As with width, two of the proposed lots have frontages that are larger than the frontages of lots existing in the Neighborhood because of the on-lot stream valley buffers. These larger frontages do not render these lots out of character with the Neighborhood. Two of the proposed lots are bisected by

the proposed private street, and have frontage on both sides of the easement within which the street is located. This street configuration is unusual but not unprecedented for RE-2 subdivisions. For comparison purposes, the frontages of the proposed lots were measured along the side of the street from which the future houses have access. At these locations, the proposed lots have 195.23 feet and 222.65 feet of frontage, respectively. These frontages are within the range of existing lots in the neighborhood. A third lot is also bisected by the street but its frontage is measured on Democracy Boulevard.

Area: The buildable areas of existing lots in the Neighborhood range from 14,350 square feet to 87,601 square feet, with the majority being approximately 50,000 square feet in area (excluding the 500,086 square foot adjacent Bullis School lot). The proposed lots range in area between 24,596 square feet and 72,255 square feet. Some of the proposed lots fall at the low end of the Neighborhood range, including the three lots that are bisected by the proposed private street, and three lots which are significantly impacted by stream valley buffer area. For the lots along the private street (proposed Lots 54 and 55), area was measured on only the side of the street where houses will be located. After excluding stream buffer area, these lots all have buildable areas just above 30,000 square feet. Proposed Lots 52, 53, and 60 have buildable areas of 33,163, 24,596 and 35,677 square feet, respectively. Only four lots within the Neighborhood have smaller buildable areas. Like the proposed lots, the existing lots are also affected by stream valley buffer or easements that limit the area within which a house can be constructed. The lots themselves are not smaller than those within the Neighborhood.

Although some of the proposed lots statistically fall within the low range with respect to area, the Board finds that the areas of these lots are of the same character with respect to the area criterion as other lots within the Neighborhood. The area criterion (as a measure of developable area within a lot) is less critical in large lot zones than it is in small lot zones because the usable area in a large lot is typically more than adequate to accommodate a house and yard. Therefore, the Board finds that a statistically "high correlation" is not necessary to find that the lot is of the same character.

Alignment: All the proposed lots are perpendicular and radial in alignment, which is consistent with the existing lots in the Neighborhood.

Shape: The proposed lots are mostly irregular, with one proposed pipestem. The majority of lots within the Neighborhood are irregular in shape but there are also existing pipestem lots.

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

- h. The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.*

VI. CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 120060200 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120060200, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 12 dwelling units.
- 2) Compliance with the conditions of the preliminary forest conservation plan approval dated June 15, 2006. 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, as applicable.
- 3) No clearing or grading on the site, except for demolition of existing structures, prior to the approval of a final forest conservation plan.
- 4) Final approval of a detailed landscape plan by technical staff prior to plat recordation.
- 5) Applicant shall construct an 8-foot-wide shared-use path along Democracy Boulevard between Stapleford Hall Drive and the western property boundary, as shown on the preliminary plan. The improvement shall be complete and open to bicycle traffic prior to the issuance of the 6th building permit.
- 6) The final alignment of the shared-use path, and the size and location of the public improvement and public utility easements, shall be determined by technical staff prior to plat recordation.
- 7) The private street shall be constructed by the applicant to the structural standards of a tertiary street, in the location shown on the preliminary plan.
- 8) Compliance with the conditions of the MCDPS stormwater management approval dated March 30, 2006.
- 9) Compliance with conditions of MCDPWT letter dated May 5, 2006, unless otherwise amended.

- 10) Record plat to reflect a Category I conservation easement over all stream valley buffer areas.
- 11) Record plat to reflect denial of access along the Democracy Boulevard site frontage, except at the two entrance points shown on the preliminary plan.
- 12) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 13) Record plat to reflect public use, common ingress/egress and utility easements over the proposed private road.
- 14) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).
- 15) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 16) Other necessary easements.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

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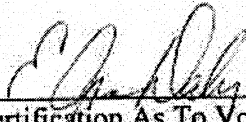
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC LEGAL DEPARTMENT
DATE 3/27/06

CERTIFICATION OF BOARD ADOPTION OF OPINION

At its regular meeting, held on **Thursday, September 7, 2006**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, **ADOPTED** the above opinion, on motion of Commissioner Bryant, seconded by Commissioner Perdue, with Commissioners Bryant, Perdue, and Robinson voting in favor, and with Chairman Hanson and Commissioner Wellington abstaining. This Opinion constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan No. 120060200, Kentsdale Estates.**



Certification As To Vote of Adoption
E. Ann Daly, Technical Writer