



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Item # 9  
12-04-03

**MEMORANDUM**

**DATE:** November 26, 2003

**TO:** Montgomery County Planning Board

**VIA:** Joseph R. Davis, Chief, Development Review Division *JRD*

**FROM:** A. Malcolm Shaneman, Supervisor, Development Review Division (301-495-4587)  
Richard A. Weaver, Senior Planner, Development Review Division *RAW* (301-495-4544)

**REVIEW TYPE:** Preliminary Plan of Subdivision

**APPLYING FOR:** One (1) Single Family Detached Dwelling Unit; One Lot

**PROJECT NAME:** Westchester

**CASE NO.** 1-02023

**REVIEW BASIS:** Chapter 50 Montgomery County Subdivision Regulations,  
Chapter 59 Montgomery County Zoning Ordinance and Approved and Adopted Kensington-Wheaton Master Plan

**ZONE:** R-90

**LOCATION:** Located on the South Side of Blueridge Avenue, Approximately 100 Feet east of Narin Road

**MASTER PLAN:** Kensington - Wheaton

**APPLICANT:** Press Real Estate Services

**SUBMITTED:** September 14, 2001

**HEARING DATE:** December 4, 2003



---

**Staff Recommendation:** Approval Subject to the Following Conditions:

- (1) Submission, for staff approval, of detailed tree save/grading plan with input from a certified arborist showing one house located to protect all trees within the stream buffer and maximized tree protection elsewhere on the lot
- (2) Compliance with the conditions of MCDPS stormwater management approval dated 9-20-01 reaffirmed 11-7-03
- (3) Access and improvements as required to be approved by MCDPW&T prior to recording of plat
- (4) Record plat to show delineation of a Category I conservation easement over the area of stream valley buffer and Category I easement to protect other trees as shown on the approved tree save plan
- (5) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all the property delineated on the approved preliminary plan, or a request for an extension must be filed
- (6) The Adequate Public Facilities (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
- (7) Necessary easements

### **Prior Planning Board Actions**

On September 14, 2001, Press Real Estate Services ("Applicant") submitted an application for the Planning Board's consideration of the above-captioned Preliminary Plan. Originally, Applicant sought to create two lots on .4784 acres of land in the R-90 zone. A public hearing was held on January 17, 2002. The Staff Report indicates that Staff recommended approval of one lot only. The Applicant requested a deferral of the case.

On May 22, 2003, a second public hearing was held on the Preliminary Plan for the approval of one lot on .4784 acres. The Planning Board voted to approve the Preliminary Plan, subject to conditions. On June 10, 2003, Staff mailed the Planning Board Opinion for this case. On July 22, 2003, the Planning Board received a reconsideration request ("July Request"), which was rejected as untimely because it was received forty-two days after the mailing date of the opinion (thirty-two days after the date any requests for reconsideration would be due).

In early October, Staff was advised by one of the requesters, Mr. Harkins, that he is a party of record to the Preliminary Plan but was not included on the Planning Board's mailing list. Staff confirmed that Mr. Harkins, a speaker at the January 17, 2002 public hearing was not included on the mailing list and, therefore, would not have received notice by mail of the May 22, 2003 public hearing; and, furthermore, Mr. Harkins would not have received a copy of the Preliminary

## Plan Opinion.

The Planning Board considered the request for reconsideration and voted to grant the request. The plan being presented and the recommended conditions of approval before the Board at the December 04, 2003 hearing are the same as those presented to the Board at the May 22, 2003 hearing.

### **PROJECT DESCRIPTION: Vicinity**

The proposed subdivision application is located on the south side of Blueridge Avenue approximately 100 feet east of Nairn Road in the Kensington – Wheaton Planning Area and Policy Area. The two unrecorded parcels (Metes and Bounds described) are identified as P82 and P108 Block C. The site consists of .48 acres or 20,908 square feet and is zoned R-90. As reflected in the attached photos, the property is fully forested with mature hardwood over story and well developed under story. The property adjoins the M-NCPPC Sligo Creek Park; the forest on the subject property is an extension of the forest within the Park. The property also contains a WSSC right of way (for a 72” water line), an ephemeral drainage swale along Blueridge Avenue, and 3350 square feet of stream buffer (or 16.3%) of the 20,554 square foot site.

### **PROJECT DESCRIPTION: Proposal**

The subject application proposes one lot of 20,840 square feet. The proposed single family dwelling unit will be located on the far west side of the property, leaving most of the remaining portion of the site as tree preservation and a Category I conservation easement. The conservation area immediately abuts Sligo Creek Park. A single driveway provides access to the property from Blueridge Avenue, a sixty-foot secondary residential street.

### **DISCUSSION OF ISSUES TO DATE:**

In order to approve the application for subdivision, the Planning Board must find that the proposed lot(s) meet the subdivision criteria as set forth in Chapter 50 of the Montgomery County Code. Additionally, Section 50-2 of the code list several purposes of the Subdivision Regulation that are significant to the Board’s consideration of this plan that states:

- (1) The harmonious development of the district;
- (2) The conservation of adequate drainage facilities;
- (3) The preservation of the location of and volume and flow of water in other characteristics of natural streams
- (4) The control of building in flood plain areas of streams, drainage courses, and environmentally sensitive areas

The Subdivision Regulations (Section 50-2) also allow the Board to restrict the subdivision of land in environmentally sensitive areas, including floodplains, drainage courses and stream valley buffers and in areas found to be unsafe for development because of possible flooding or erosive stream action. For this application, staff has determined that approval of one lot only would better protect the existing forest within the stream valley buffer, thereby protecting water quality in the Sligo Creek system.

### **Supplemental Environmental Review**

The plan has also been reviewed to determine if it meets the requirements under the Planning Boards approved and Adopted Environmental Guidelines, as well as other applicable county regulations. Staff has reviewed and approved a Tree Save Plan as part of the preliminary plan review. The applicant provided a detailed tree save plan locating the home in an area to maximize protection of the stream buffer and significant trees on the site. The plan has received a small property exemption from requirements of the Forest Conservation Act. However, the exemption specifies and allows for a tree save plan under both the new and old forest conservation legislation. As part of the Tree Save Plan, all area within the proposed tree save area is placed into a Category 1 Conservation Easement. Per Montgomery County Environmental Guidelines, all forest within the stream valley buffer must be preserved and plat recorded as Category I Conservation Easement.

Forest on the Westchester/Nairn property is high priority due to adjacency to Sligo Creek stream valley, maturity and size of trees, incorporation of environmental buffer and contiguous nature to larger offsite forest. This small mature bottomland forest contains nearly a dozen healthy specimen-sized or near specimen sized trees. Species include tulip tree, red maple, black gum, and red oak. The dominant size class of trees is 24-36 inches DBH, characteristic of a mature bottomland habitat. This urban forest represents a unique, perceived and realized, benefit to water quality, habitat and residents. The urbanized condition of Sligo Creek further warrants protection of urban forest resources when available.

### **Attachments**

- 1) Neighborhood Development Map - 5
- 2) Environmental Planning Memorandum – 6, 7
- 3) Approved Tree Protection Plan - 8
- 4) Correspondence – 9