

M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)

October 17, 2005

Distribution List  
Preliminary Plan No. 1-05075, Alta Vista

To Whom It May Concern:

Attached please find a corrected Planning Board Opinion for the above-referenced Preliminary Plan. The written opinion you previously received was stamped with an incorrect mailing date. Please note that **ONLY** the mailing date has been changed on this corrected opinion.

A handwritten signature in black ink, appearing to read "CAC", with a long horizontal line extending to the right.

Catherine Conlon  
Subdivision Supervisor  
Development Review Division

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SEP 22 2005

**Date Mailed:**

**Board Approval Date:** May 19, 2005

**Action:** Approved Staff

Recommendation

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

**MONTGOMERY COUNTY PLANNING BOARD**

**CORRECTED OPINION**

Preliminary Plan 1-05075

NAME OF PLAN: Alta Vista (Resubdivision)

The date of this written opinion is SEP 22 2005 (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).

**INTRODUCTION**

On 3/4/05, the applicants, Mr. & Mrs. Steve Schultz ("Applicants"), submitted an application for the approval of a preliminary plan of subdivision of property in the R-60 zone. The application proposed to create 2 lots on 0.55 acres of land located at the northwest quadrant of the intersection of Acacia Avenue and Locust Avenue, in the Bethesda-Chevy Chase master plan area. The application was designated Preliminary Plan 1-05075. On 5/19/05, Preliminary Plan 1-05075 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public 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 public 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 public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

### **SITE DESCRIPTION**

The subject property consists of 0.55 acres (24,163 square feet) of land comprised of one existing lot, which was previously resubdivided in 1948 ("Property"). The Property is located at the intersection of Acacia Avenue and Locust Avenue and is zoned R-60. A residential dwelling exists on the Property.

The Property drains to the Rock Creek stream valley (Use Classification I-P) and contains several individual trees but no forest, streams or environmentally sensitive area.

### **PROJECT DESCRIPTION**

This is an application to resubdivide the 0.55 acre Property into two residential lots. The proposal creates an 8,132 square foot lot (Lot 22) and a 13,664 square foot lot (Lot 23). The Applicant proposed to remove the existing dwelling and construct two new one-family detached dwellings. The two dwellings would have separate driveway access to Acacia Avenue and Locust Avenue, respectively.

### **DISCUSSION OF ISSUES**

#### **Master Plan Compliance**

Staff advised the Board that the Bethesda/Chevy Chase Master Plan ("Master Plan") does not specifically identify the Property for discussion but does give general guidance and recommendations regarding zoning and land use. The Master Plan recommends that this area (Mid-Bethesda-Northern B-CC) maintain the existing zoning as adopted and maintain the residential land use consisting of one-family detached homes. Staff found that the proposed resubdivision 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 R-60 zone.

Conformance with Section 50-29(b)(2)

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate "neighborhood" for evaluating the application. In this instance, the neighborhood selected by the Applicants and agreed to by Staff consisted of 24 lots, including all lots that abut or confront the proposed lots, as well as the lots along the same blocks on the frontage streets ("Neighborhood"). Existing parts of lots were excluded from the Neighborhood. All the lots share the same R-60 zoning. Staff advised the Board that, in its view, the Neighborhood provided an adequate sample of the lot and development pattern of the area. The Board concurs with Staff's analysis and expressly adopts the Neighborhood delineated by Staff for analysis purposes.

In performing the analysis, Staff applied the above-noted resubdivision criteria to the Neighborhood. Staff concluded that the proposed lots fall within the neighborhood ranges for the resubdivision criteria and are of the same character with respect to the resubdivision criteria as other lots within the defined neighborhood. Therefore, Staff concluded that the proposed resubdivision complies with the criteria of Section 50-2(b)(2). The Board finds that the tabular summary and graphical documentation support Staff's conclusion.

Forest Conservation

Staff advised the Board that the Property is exempt from forest conservation requirements, and a tree save plan was not required.

**SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD**

Development Review Staff ("Staff") recommended approval of the Application in its memorandum dated May 11, 2005 ("Staff Report"). Staff presented its findings consistent with the Staff Report at the public hearing. The Applicants appeared at the public hearing represented by their engineer, who testified that the Applicants supported the Staff recommendation. No other party testified in support of or in opposition to the

Application. Additionally, the record includes no correspondence either in support of, or in opposition to, the Application.

### **FINDINGS**

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopt and incorporate by reference; the recommendations of the applicable public agencies<sup>1</sup>; 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:

- a) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-35(l), that Preliminary Plan No. 1-05070 substantially conforms to the Bethesda-Chevy Chase master plan.
- b) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-35(k), that public facilities will be adequate to support and service the area of the proposed subdivision.
- c) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-29(a)(1), that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) Finds that the Property is exempt from forest conservation requirements, and a tree save plan was not required.
- e) Finds that 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) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-29(b)(2), that 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), as analyzed below.

Frontage: The existing lots range in frontage from 60 feet to 96.81 feet. Proposed Lot 22 has a lot frontage of 91 feet, and proposed Lot 23 has a frontage of 124 feet. Staff testified that Proposed Lot 124 will have a larger

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<sup>1</sup> 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.

frontage than the existing lots within the Neighborhood because of the unusual configuration of the intersection of Acacia Avenue and Locust Avenue, which is an existing condition. Staff stated its view that the proposed resubdivision will result in lots that are in greater conformance with the frontages of lots in the designated neighborhood than the existing lot. Concurring with Staff's analysis and reasoning, the Board finds that the proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Alignment: There are 12 perpendicular, 1 angular, 5 corner, and 6 radial lots in the Neighborhood. Proposed Lot 22 is perpendicular in alignment and proposed Lot 23 is a corner lot. As such, the Board finds that the proposed lots will be in character with the existing lots with respect to the alignment criterion.

Size: The existing Neighborhood lots range in size from 5,421 square feet to 15,024 square feet. Proposed Lot 22 will be 8,132 square feet and Lot 23 will be 13,664 square feet. The sizes of the proposed lots fall within the range of the existing lots' sizes; and, therefore, the Board finds that the proposed lots will be in character with the existing lots in the neighborhood with respect to size.

Shape: Proposed Lots 22 and 23 will be irregular in shape. The neighborhood consists of 16 irregular shaped lots, 6 rectangular shaped lots and 2 triangular lots. The Board, therefore, finds the shapes of the proposed lots to be in character with shapes of the existing lots.

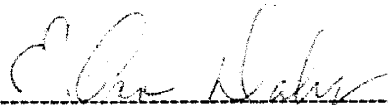
Width: The existing lots range in width from 60 feet to 117.5 feet. Proposed Lot 22 will have a lot width of 81 feet and Lot 23, 130 feet. Staff advised the Board that Proposed Lot 23 will be the widest in the Neighborhood as a consequence of the unusual configuration of the intersection of Acacia Avenue and Locust Avenue, which is an existing condition. Concurring with Staff's analysis and the existence of unusual existing conditions, the Board finds that the proposed lots will be in character with existing lots in the neighborhood with respect to width.

Area: Lot areas in the neighborhood range from 1,400 square feet to 8,600 square feet. Proposed Lots 22 and 23 will have areas of 3,400 square feet and 4,500 square feet, respectively, which fall well within the range of lot areas in the Neighborhood. Therefore, the Board finds the proposed lots to be of the same character as other lots in the Neighborhood with respect to area.



**CERTIFICATION OF BOARD ADOPTION OF OPINION**

At its regular meeting, held on **Thursday, September 15, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan No. 1-05075, Alta Vista (Resubdivision)**. Vice Chair Perdue was absent.



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



**PLAT NO. 220060860**

Bradley Farms

In the south east corner of Congressional Parkway and Inglewood Drive

RE-2 Zone, 2 Lots

Community Water, Community Sewer

Planning Area: Potomac

Chester & Phyliss Davenport, Applicant

Staff recommends approval of this minor subdivision plat pursuant to section 50-35A (1) of the Subdivision Regulations, which states:

Minor Lot Line Adjustment. The sale or exchange of part of a lot between owners of the adjacent lots for the purpose of small adjustments in boundaries; provided:

- a. The total area of the adjustment does not exceed five percent of the combined area of the lots affected by the adjustment;
- b. No additional lots are created;
- c. The adjusted lot line is approximately parallel with the original lot line or, if it is proposed to intersect with the original line, it does not significantly change the shape of the lots involved; and,
- d. The owner submits a sketch plan for review and approval by the Planning Board staff. The sketch plan may be a copy of the existing record plan and must contain the following information:
  - i. Proposed lot line adjustment as a dashed line;
  - ii. Any buildings, driveways, or other physical improvements located within fifteen feet of the proposed adjusted lot line;
  - iii. Any minimum building setback that would be altered by the minor lot line adjustment; and
  - iv. The amount of lot area affected by the minor lot line adjustment.

The sketch plan must be approved, approved with revision or denied, in writing, within ten business days after the plan is submitted or the sketch plan is deemed approved, provided requirements i through iii, above, are met. A final record plat must be submitted to Planning Board staff within ninety days after sketch plan approval or the sketch plan is no longer valid.

- e. Any minor lot line adjustment between properties that occurred prior to May 19, 1997, remains as an exception to platting as provided in Section 50-9(d).

Staff applied the above-noted minor subdivision criteria for the two lots (previously known as lots 1 and 2) and concludes that the proposed minor subdivision complies with

the criteria of Section 50-35A (1) of the subdivision regulations and supports this minor subdivision record plat.

