

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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Silver Spring, Maryland 20910-3760
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Date Mailed: SEP 22 2005
Board Approval Date: May 19, 2005
Action: Approved Staff Recommendation
Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
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

OPINION

Preliminary Plan 1-03090

NAME OF PLAN: Yinger's Addition to Woodfield (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).

On 4/15/03, the applicant, George Hunt ("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 5 lots on 14.48 acres of land located at the terminus of Kimblehunt Place in the Damascus master plan area. The application was designated Preliminary Plan 1-03090. On 5/19/05, Preliminary Plan 1-03090 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.

SUMMARY OF TESTIMONY AND EVIDENCE IN RECORD

Development Review Staff ("Staff") recommended approval of the Application in its memorandum dated May 13, 2005 ("Staff Report"). Staff presented its findings consistent with the Staff Report at the public hearing. The Applicant, who appeared at the public hearing represented by his engineer, advised the Board that he 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 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:

- a) Finds, pursuant to MONTGOMERY COUNTY CODE § 50-35(l), that Preliminary Plan No. 1-05070 substantially conforms to the Damascus 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.

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.

- d) Finds that 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.
- 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 25 feet to 316 feet. The proposed lots range from 25 feet to 97 feet and fall within the range of existing lot frontages in the neighborhood. Therefore, the Planning Board finds the proposed lots will be of the same character as the existing lots in the neighborhood with respect to lot frontage.

Alignment: Staff advised the Board that all existing lots in the neighborhood generally align perpendicularly to the street line, noting that there is some variation in the neighborhood with respect to the pipestem lots at the terminus of Kimblehunt Drive, which meander somewhat back to the buildable area of the lots. Two of the proposed lots will have rather long pipestems, which will similarly meander back to the buildable portions of the lots and are, therefore, consistent with the character of existing lots in the neighborhood. As such, the Board finds that all proposed lots will be in character with the existing lots with respect to the alignment criterion.

Size: The existing lots range in size from 21,780 square feet to 90,986 square feet. One proposed lot falls within the range for the defined neighborhood. Staff advised the Board that four of the five proposed lots do not fall within the range of lot sizes as they are larger in size than the largest existing lot: proposed lots 16, 17, 18, and 20 are 91,625 square feet, 157,046 square feet, 95,800 square feet, and 146,109 square feet respectively. Staff testified that the configuration of the parent parcel dictates the lot layout as shown on the plan, noting that the subject property is rather narrow, rendering use of the westernmost and easternmost portions difficult and resulting in large lots with large rear

yards. Staff advised the Board that because the subject property is located in a large lot zone (RE-2), which has a minimum lot size requirement of 87,120 square feet, Staff was of the opinion that Lots 16, 17, 18 and 20 are of the same character as the other lots in the neighborhood. Concurring with Staff's analysis, the Board finds that all of the proposed lots will be in character with the existing lots in the neighborhood with respect to size.

Shape: The existing neighborhood generally has a rectangular lot pattern. It is clear from the evidence of record, including plans of the proposed subdivision and the Comparable Lot Data Table, that the proposed lots are very similar in shape to the existing 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 106 feet to 339 feet. All of the proposed lots fall within the range of the existing lots and, therefore, the Board finds that they are of the same character as the existing lots in the neighborhood with respect to the width criterion.

Area: Lot areas in the neighborhood range from 12,981 square feet to 59,483 square feet. Staff informed the Board that, while four of the five lots are within the range of lot area for the defined neighborhood, proposed lot 20 at 80,287 square feet, exceeds the buildable area range of the existing lots; however, Staff testified, the large buildable area of Lot 20 is a function of the subject property's shape and that, in Staff's view, the area of proposed Lot 20 is in character with all other lots in the neighborhood. Staff noted that the large rear yard on Lot 20 will provide a generous setback from the house to Woodfield Road, maintaining a nice scenic vista. Therefore, the Board finds all of the proposed lots to be of the same character as other lots in the neighborhood with respect to the area criterion.

Suitability for Residential Use: The proposed lot and the existing lots in the neighborhood are zoned residential and are suitable for residential use.

- g) 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.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-03090 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-03090, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to five (5) residential lots.
- 2) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 3) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 4) The applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
- 5) Record plat to reflect a Category I easement over all areas of forest conservation.
- 6) Compliance with the conditions of approval of the MCDPS stormwater management approval dated, April 10, 2003.
- 7) Access and improvements as required by MCDPWT prior to recordation of plat(s).
- 8) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 9) Record Plat shall reflect all areas under stormwater management parcels.
- 10) Compliance with conditions of MCDPS (Health Dept.) septic approval dated February 7, 2005.
- 11) Other necessary easements.

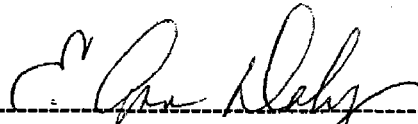
This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among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

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PLAT LEGAL SUFFICIENCY

APPROVED AS TO LEGAL SUFFICIENCY
TAB
M-NCPPC LEGAL DEPARTMENT
DATE 8/13/05

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. 1-03090, Yinger's Addition to Woodfield (Resubdivision)**. Vice Chair Perdue was absent.



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