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M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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MCPB

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January 26, 2006

MEMORANDUM

DATE: December 30, 2005

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Supervisor *CC*
Development Review Division

FROM: Dolores M. Kinney, Senior Planner (301) 495-1321 *DMK*
Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Resubdivision of Existing Lots 3 and 4

PROJECT NAME: George A. Davis

CASE #: 120060130 (Formerly 1-06013)

REVIEW BASIS: Chapter 50, Sec. 50-29 (b)(2), Montgomery County Subdivision Regulations

ZONE: R-60

LOCATION: Located on the southeast side of Newport Mill Road, approximately 200 feet south of the intersection with Stark Street, northwest of Newport Mill Park

MASTER PLAN: Kensington/Wheaton

APPLICANT: PBC, LLC

ENGINEER: Benning & Associates, Inc.

FILING DATE: August 3, 2005

HEARING DATE: January 26, 2006



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STAFF RECOMMENDATION: Approval, pursuant to Section 50-29 (b) (2), Montgomery County Subdivision Regulations subject to the following conditions:

- 1) Approval under this preliminary plan is limited to three (3) residential lots.
- 2) Compliance with the approved tree save plan dated January 13, 2006.
- 3) Compliance with conditions of MCDPWT letter dated, December 15, 2005, unless otherwise amended.
- 4) Compliance with the conditions of approval of the MCDPS stormwater management approval dated November 15, 2005.
- 5) There shall be no disturbance of trees and other vegetation on adjacent parkland and no grading onto parkland.
- 6) Contracts of sale for new houses shall include notice to buyers of the existence of adjacent local park and the active recreation facilities thereon, including notice of the possibility of future improvements to the park.
- 7) Prior to the issuance of house demolition permit for the existing dwelling or building permits for the new houses, applicant shall provide specifics of tree protection planned for the affected trees on and off-site.
- 8) The existing dwelling should not be demolished without an arborist's report and an approved Tree Save Plan.
- 9) Other necessary easements

SITE DESCRIPTION:

Lots 3 and 4, referred to as the "Subject Property", are part of the George A. Davis Subdivision, which was recorded in 1960. The Subject Property is located on the southeast side of Newport Mill Road, approximately 200 feet south of the intersection with Stark Street, northwest of Newport Mill Park (Attachment A). Newport Mill Park is a local park of approximately 11 acres containing a picnic area, playground and two (2) ballfields. The property contains 35,948 square feet of land and is zoned R-60. Two one-family detached residential dwelling units currently exist on the Subject Property and will be removed. There are no environmental features on the property except for six specimen trees.

PROJECT DESCRIPTION:

This is a preliminary plan of subdivision application to create three (3) residential lots for the construction of three one-family detached dwelling units (Attachment B). Two dwellings, which currently exist on the property, will be removed. Access to the Subject Property will be directly from Newport Mill Road.

DISCUSSION OF ISSUES

Master Plan Compliance

The Kensington/Wheaton Master Plan does not specifically identify the Subject Property for discussion but does give general guidance and recommendations regarding

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zoning and land use. The plan recommends that this area maintain the existing zoning as adopted and maintain the low-to-medium density residential character. The proposed resubdivision complies with the recommendations adopted in the master plan in that it is a request for residential development.

Environmental

There is no forest on this property and this site is exempt from Forest Conservation Law, as a small property. A tree save plan submitted as part of the preliminary plan and was approved on January 13, 2006. This plan proposes to save the 28" Scarlet Oak at the front of Lot 5 by installing the adjacent driveway above grade and using root aeration mat underneath to minimize disturbance. Utilities will be placed under the driveway as possible and any utilities that must go through the critical root zone of this tree will be tunneled through, not trenched. Root pruning will be provided on any other edge of construction around this tree. The other four specimen trees on-site will be removed as part of this development plan. These include a 26" Silver Maple and three White Pines (27", 30", 31"). These trees are necessary to be removed, as unavoidable grading would seriously impact them. Impacts to trees in Newport Mill Park were minimized by restraining the limits of disturbance as much as possible. The driveway on lot 7 will be above grade and use root aeration mat underneath to minimize disturbance to a 28" White Pine. Root pruning will be done along the rest of the limits of disturbance so that no park trees should be seriously impacted.

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

Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that the proposed lot 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.

Neighborhood Delineation

In administering the Resubdivision section, the Planning Board must determine the appropriate "neighborhood" for evaluating the application.

The applicant has proposed a neighborhood of 10 lots for analysis purposes (Attachment C). The neighborhood includes the adjacent lot to the north, and all lots on the opposite side of Newport Mill Road in the same block as the Subject Property. Staff

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is of the opinion that the applicant's neighborhood delineation is appropriate because it provides an adequate sample that exemplifies the lot and development pattern of the area. The applicant has provided a tabular summary of the area based on the resubdivision criteria, which is included in the staff report.

ANALYSIS

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, Staff applied the resubdivision criteria to the delineated neighborhood. Based on the analysis, Staff finds that the proposed resubdivision will be of the same character as the existing lots in the neighborhood. As set forth below, the attached tabular summary (Attachment D) and graphical documentation support this conclusion:

Frontage: In a neighborhood of 10 lots, lot frontages range from 60 feet to 201 feet. The proposed Lot 5 has a lot frontage of 71.46 feet. Lots 6 and 7 have frontages of 70 feet. **Therefore, Staff finds that the proposed lot will be consistent in character with other lots in the neighborhood.**

Area: In a neighborhood of 10 lots, lot areas range from 2,679 square feet to 14,414 square feet with the majority of lots being between 3,000 and 4,000 square feet in area. The proposed Lot 5 has an area of 4,811 square feet and Lots 6 and 7 have areas of 4,680 square feet. **Staff finds that the proposed resubdivision will be consistent in character with the existing lots in the neighborhood with respect to area.**

Lot Size: The lot sizes in the delineated neighborhood range from 7,137 square feet to 22,663 square feet. The proposed Lot 5 will have a lot size of 12,148 square feet and Lots 6 and 7 both have lot sizes of 11,900 square feet. **Therefore, the lot size of the proposed lot will be of the same character as the existing lots in the neighborhood.**

Lot Width: The lot widths in the existing neighborhood range from 60 feet to 164 feet, the majority being 60 to 65 feet in width. The proposed Lot 5 will have a lot width of 71.46 feet and Lots 6 and 7 will have lot widths of 70 feet each. **The proposed resubdivision will have a high correlation to the other lots in the neighborhood.**

Shape: All of the existing lots in the neighborhood are rectangular lots. **The proposed lots are also rectangular in shape and will be consistent in character with the overall pattern of differently shaped lots in the neighborhood.**

Alignment: There are two (2) corner lots in the neighborhood and eight (8) perpendicular lots in the neighborhood. **The proposed lots are also**

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perpendicular lots and will be of the same character as the other existing perpendicular lots in the neighborhood.

Residential Use: The existing lots and the proposed lots are residential in use.

Citizen Concerns

The Development Review Division received a letter from the Kingdom Hall of Jehovah's Witnesses expressing concerns regarding the proposed preliminary plan. Kingdom Hall of Jehovah's Witnesses is the property owner of record for Lot 1, located immediately north of the Subject Property. The concerns included water run-off generated from the proposed site and whether a privacy fence or barrier would be erected between the two properties. Staff responded by explaining that the preliminary plan review includes evaluation of storm water run-off by the Department of Permitting Services (DPS) and methods of mitigating negative impacts on adjacent properties. In reference to the privacy fence, staff also explained that there are no subdivision regulations, which would require a privacy fence or barrier between the properties. A copy of the citizen letter and Staff's response is shown in Attachment F.

CONCLUSION

Section 50-29 (b) (2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. The proposed resubdivision will create three lots that will have a high correlation with all of the lots in the existing neighborhood based on the resubdivision criteria. Staff finds that the proposed resubdivision is of the same character as existing lots in the neighborhood therefore, it complies with Section 50-29(b)(2) of the Subdivision Regulations.

Staff also finds that the proposed preliminary plan complies with Chapter 50 of the Montgomery County Code, Subdivision Regulations, in that public facilities will be adequate to support and service the area of the proposed subdivision and Chapter 59, the Zoning Ordinance, as summarized in the attached data table (Attachment E). As such, Staff recommends approval of the preliminary plan.

Attachments

Attachment A Vicinity Development Map
Attachment B Proposed Development Plan
Attachment C Neighborhood Delineation Map
Attachment D Tabular Summary
Attachment E Data Table
Attachment F Citizen Correspondence and Staff Response