



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

SEP 15 2008

MCPB No. 08-158
Preliminary Plan No. 120080100
Winbrook
Date of Hearing: December 11, 2008

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on September 19, 2007, Bill Plank ("Applicant"), filed an application for a preliminary plan of subdivision that would create three (3) lots on 0.9450 acres of land located at the northern terminus of Dunkirk Drive and on the south side of Plyers Mill Road ("Property" or "Subject Property"), in the Kensington Wheaton master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No.120080100 , Winbrook ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated December 1, 2008, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on December 11, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on December 11, 2008, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Cryor; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Presley, voting in favor, Commissioner Robinson being absent.

Approved as to
Legal Sufficiency:

DR/CS 8/10/09

8787 Georgia Avenue, Silver Spring, Maryland 20910

Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org

E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120080100, to create three (3) lots on 0.9450 acres of land located at the northern terminus of Dunkirk Drive and on the south side of Plyers Mill Road in the Kensington - Wheaton Master Plan area, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 3 lots for 3 one family detached dwelling units.
- 2) The Applicant must provide verification that the existing house on the Property has been demolished prior to recordation of the plat.
- 3) A detailed Tree Save Plan must be submitted prior to issuance of the sediment control plan with detailed and specific tree preservation measures. The Tree Save Plan must be prepared and signed by an ISA-certified arborist if the proposed limits of disturbance (LOD) impact more than 1/3 of the critical root zone of any specimen tree.
 - a. The proposed development shall comply with the conditions of the Tree Save Plan and all tree protection measures must be installed prior to any demolition, clearing, or grading on the Subject Property.
 - b. Tree protection measures shown on the Tree Save Plan must be matched to the limits of disturbance shown on the sediment control plan.
 - c. The Tree Save Plan must include tree protection measures for off-site and shared trees and the most current approved details for construction sequencing and inspections.
- 4) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated July 31, 2008.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated November 21, 2008, unless otherwise amended.
- 6) Prior to recordation of plat, Applicant to submit permit and bond for construction of a 4 foot wide sidewalk along the property frontage and off site to connect to Glenhaven Drive.
- 7) 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 Resolution.
- 8) Other necessary easements must be shown on the record plat(s).

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Kensington-Wheaton Master Plan does not specifically make recommendations for this site but does focus in a general manner on the residential parts of Kensington-Wheaton. The Master Plan encourages the protection, stabilization, and continuation of current residential land patterns. The objective of the Master Plan is to protect and stabilize the extent, location, and character of existing residential and commercial land uses and to maintain the well established, low to medium-density, residential character which prevails over most of the planning area. The proposed Application satisfies this objective by creating residential lots which fit well into the existing neighborhood with regard to size and orientation.

The extension of Dunkirk Drive was fully examined as part of the review process. The existing street network adequately accommodates the existing residential community. Impacts to existing curb, driveways, sidewalks and yards outweigh the desirability of the road connection. Given that the Master Plan makes no recommendations on the extension of Dunkirk Drive and that the development conforms to the established R-60 zone, the Planning Board finds that the lots, as presented to them, comply with the Kensington-Wheaton Master Plan as does the current road network.

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

Roads and Transportation Facilities

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation Review. The existing road network provides adequate access for vehicles, including emergency vehicles, and the required sidewalk, including an off-site extension as shown on the Preliminary Plan, will improve pedestrian mobility. The Planning Board finds that the vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

Other Public Facilities and Services

The Application has been reviewed by all local utility agencies (gas, electric, and telecommunications) who have recommended approval of the Preliminary Plan with a finding that their respective utility can adequately

serve the development. Other public facilities and services, such as schools, police stations, firehouses and health services, are currently operating within the standards set by the Growth Policy Resolution currently in effect. The Property is not within a school moratorium area; and is not subject to payment of a School Facilities Payment. The Planning Board finds that all other public facilities will be adequate to serve the proposed subdivision.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The Planning Board finds that the three (3) proposed lots' size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots, as proposed, will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

Although the Property is exempt from the requirements to provide a Forest Conservation Plan, tree save issues are addressed. Prior to issuance of sediment control permits the Applicant is required to submit a revised Tree Save Plan to address protection of off-site trees and to accurately show all trees to be removed on the Property. There are no specimen trees or significant environmental features on the Property. The Planning Board finds that the Application complies with Chapter 22A, the Montgomery County Forest Conservation Law.

- 5. 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 as approved on July 31, 2008 meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved a stormwater management concept that relies on dry wells for water quality protection. No water channel protection measures are required because the one year post development discharge is less than 2.0 cubic feet per second. The Planning Board finds that the Preliminary Plan adequately addresses the requirement for stormwater management.

BE IT FURTHER RESOLVED, that 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) and that 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; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board, and that the date of this Resolution is **SEP 15 2009** (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Wells-Harley, seconded by Commissioner Presley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, September 10, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board