



# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JAN 13 2009

**MCPB No. 08-164  
Preliminary Plan No. 120050230  
Slater Property  
Date of Hearing: 12/18/08**

## MONTGOMERY COUNTY PLANNING BOARD

### RESOLUTION<sup>1</sup>

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 August 5, 2004, JH & DM Slater ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 7.32 acres of land located on the east side of Chandlee Mill Road, approximately 3000 feet north of Brooke Road ("Property" or "Subject Property"), in the Sandy Spring/Ashton master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120050230, Slater Property ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated December 8, 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 18, 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

<sup>1</sup> This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to  
Legal Sufficiency:

*Christina Sorento* 12/31/08

8787 Georgia Avenue, NCCPPC Legal Department, 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, on December 18, 2008, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Alfandre; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120050230 to create two lots on 7.3 acres of land located on the east side of Chandlee Mill Road approximately 3000 feet north of Brooke Road ("Property" or "Subject Property"), in the Sandy Spring/Ashton master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to two lots for two one-family detached dwelling units.
- 2) The Applicant must comply with the conditions of approval of the preliminary forest conservation plan.
- 3) Prior to certification of the Preliminary Plan, the Applicant must revise the proposed conservation easement in the area north and west of the proposed house on Lot 2 as approved by Staff, and reflect the revised line on the certified plans.
- 4) The Applicant must submit a revised Preliminary Plan and revised preliminary forest conservation plan in response to condition 3 prior to certification of the Preliminary Plan.
- 5) The Applicant must place a Category I Forest Conservation Easement on all retained forest and the entire stream valley buffer with the exception of the areas where it will be adjusted as identified in Condition number 3.
- 6) The Applicant must comply with the Patuxent River Primary Management Area (PMA) requirements including limiting onsite imperviousness to no more than ten percent as calculated over the gross tract area of the Preliminary Plan.
- 7) The Applicant must incorporate and implement an invasive species eradication and management plan for the forest retention areas as part of the final forest conservation plan.
- 8) The record plat must provide for dedication of right-of-way along the property frontage measured 35 feet from the centerline of Chandlee Mill Road.
- 9) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated September 30, 2004, unless otherwise amended.
- 10) The Applicant must comply with the conditions of the MCDPS, Wells and Septic Section approval dated April 23, 2007, unless otherwise amended.
- 11) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated October 20, 2008, unless otherwise amended.

- 12) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat.
- 13) The record plat must show necessary easements.
- 14) 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.

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 proposed Preliminary Plan is located in the Sandy Spring Ashton Master Plan Area. The Master Plan recommends retention of the existing rural character of the neighborhood by retaining the zoning throughout the Master Plan area, which allows a limited amount of residential development. Thus, in the case of the subject property, the Master Plan calls for retention of the existing RE-2 zoning, which reflects the septic suitability of the area. In the Land Use and Zoning section of the plan, the property and surrounding area is identified as suitable for one-family detached housing. The proposed subdivision complies with the recommendations adopted in the Sandy Spring Ashton Master Plan in that it proposes one-family detached housing consistent with the current density of the neighborhood and the current zoning designation. The proposed lots are generally of the same character as the surrounding area, and the house locations are ideal to meet the environmental goals identified in the Master Plan. Therefore, the Board finds that the proposed subdivision complies with the Sandy Spring Ashton Master Plan.

*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. In addition, the Application was submitted prior to July 1, 2007, and is not subject to Policy Area Mobility Review. Proposed access to the lots will be via private driveways from Chandlee Mill Road. The Board finds that proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

Other Public Facilities and Services

The Board finds that public facilities and services are available and will be adequate to serve the proposed development. The property will be served by private wells and septic systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the property. The Application is not within a school moratorium area. Electrical and telecommunications services are also available to serve the Property.

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

The lots have been reviewed for compliance with 50-29(a) of the Subdivision Regulations. The Planning Board finds that the size, shape, width, and area of the lots were appropriate for their location within the surrounding neighborhood.

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

The project was reviewed for compliance with Chapter 22A of the Montgomery County Code, the Forest Conservation law. Currently, there is 6.28 acres of forest on the Subject Property. The preliminary forest conservation plan indicates the removal of 0.78 acres of forest. There will not be a forest planting requirement associated with this project since 5.5 acres, or more than 85% of the existing forest will be preserved. Therefore, the Board finds the Preliminary Plan complies with Chapter 22A, and the proposed project is not subject to a reforestation planting requirement.

- 5. The Application complies with the requirements of the Patuxent River Primary Management Area Functional Master Plan and sufficiently protects onsite stream buffers and associated forest.*

The subject site lies entirely within the Patuxent River Primary Management Area (PMA). The PMA is subject to specific guidelines that serve to protect water quality in the watershed. The land area within the PMA that does not fall within the stream buffer is managed as a transition area. New development in the transition areas are subject to guidelines that serve to minimize impacts on water quality and maximize protection of environmental features. The transition area has a ten percent (10%) site imperviousness limit on new development projects. However, the imperviousness may be averaged over an entire development (10% over the entire site) if this would result in greater compatibility and/or accomplish master plan goals

and maintain community character. The imperviousness within the transition area on the subject site exceeds the 10% limit; however, this project conforms to the Master Plan recommendations by maintaining the existing rural character of the neighborhood. In addition, the proposed subdivision is compatible with the area and maintains the character of the community. Thus, the Planning Board finds that it is appropriate in this case to calculate the imperviousness over the entire site rather than in the transition area only. This results in an imperviousness of approximately eight percent (8%) and is in conformance with the PMA recommendations.

All retained forest and the majority of the stream valley buffer will be protected in a Category I forest conservation easement. There are two areas where the conservation easement does not follow the stream valley buffer demarcation. The conservation easement will be expanded to include additional areas of steep slopes and highly erodible soils and reduced in the area immediately adjacent to the proposed house on Lot 2 to allow for a more adequate side yard. The Planning Board finds that the proposed conservation easement expansion, as discussed at the hearing, will compensate for the small area of stream buffer encroachment by protecting steep slopes that drain to the stream valley. Per the Board's conditions of approval, the Preliminary Plan will be revised prior to certification to reflect the revised easement.

*6. 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.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on September 30, 2004. The stormwater management concept includes on-site water quality control and recharge via disconnection of the proposed impervious surfaces. Channel protection is not required because the one-year post-development peak discharge is less than or equal to two cubic feet per second.

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



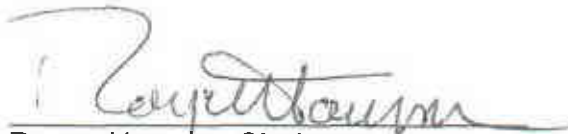
BE IT FURTHER RESOLVED, that the date of this Resolution is JAN 13 2009 (which is the date that this Resolution is mailed to all parties of record); and

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 Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, Alfandre, and Cryor voting in favor of the motion, and Commissioner Presley absent, at its regular meeting held on Thursday, January 8, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board