



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

APR - 1 2009

MCPB No. 09-30
Preliminary Plan No. 120080030
The Bullis School
Date of Hearing: March 12, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

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 June 23, 2004, The Bullis School, Inc. ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 77.63 acres of land located in the northeast quadrant of the intersection of Falls Road and Democracy Boulevard ("Property" or "Subject Property"), in the Potomac master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080030, The Bullis School ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 19, 2009 and revised on March 5, 2009 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 March 12, 2009, 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

¹ 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:

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WHEREAS, on March 12, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Cryor; seconded by Commissioner Robinson; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Robinson voting in favor, Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120080030 to create 1 lot on 77.63 acres of land located in the Northeast quadrant of the intersection of Falls Road and Democracy Boulevard ("Property" or "Subject Property"), in the Potomac master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one recorded parcel for a private educational institution with a maximum student enrollment of 900 students. The approval includes expansion/construction of various on-site improvements/facilities including a new Lower School Building and new Upper School Building as shown on the Preliminary Plan.
- 2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 3) The record plat must reflect a Category I easement over areas of stream valley buffers and forest conservation.
- 4) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated August 29, 2007. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated July 1, 2008. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must construct an 8 foot-wide shared use path along the Democracy Boulevard Property frontage as shown on the Preliminary Plan and as required in the MCDOT letter dated July 1, 2008.
- 7) The Applicant must pay for or construct an 8 foot-wide shared use path along the Falls Road Property frontage per CIP Project No. 500905 or according to MCDOT requirements.
- 8) The Applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated September 11, 2008.
- 9) The Applicant must dedicate 5 feet of additional right-of-way along the Democracy Boulevard property frontage as shown on the Preliminary Plan.

- 10) The Applicant must dedicate right-of-way along the Falls Road property frontage as shown on the Preliminary Plan to provide for the 8 foot-wide shared use path.
- 11) The Applicant must create an easement for future dedication for the remainder of the Falls Road right-of-way as shown on the Preliminary Plan. The Applicant must record a covenant with MDSHA detailing the terms for future dedication of the easement and relocation of the constructed 8 foot-wide shared use path, and the record plat must reference this covenant.
- 12) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s) and MDSHA prior to issuance of access permits.
- 13) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for one hundred twenty-one (121) months from the date of mailing of the Planning Board Resolution by which time building permits must be issued for the new lower school and upper school buildings or an extension request must be filed.
- 14) Other necessary easements must be shown on the record plat.

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 2002 Potomac Subregion Master Plan references public school capacity and identifies sites for new facilities but makes no specific recommendations for private institutional uses. The land use and zoning section of the Master Plan “supports the retention and reconfirmation of existing zoning for all developed, underdeveloped and undeveloped land in the Subregion, except for those sites recommended for change in the Plan” (p. 40). The land use and zoning section of the Master Plan also lists design principles established to preserve the Subregion’s green and rural character while creating a pedestrian and bicycle-friendly environment. The Bullis School Preliminary Plan satisfies the land use intent of the Master Plan in that it retains significant open space and the required shared use path construction along the Property’s Falls Road and Democracy Boulevard frontages will expand the pedestrian and bicycle network in the area. The Planning Board finds the Preliminary Plan substantially conforms to the Master Plan.

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

Roads and Transportation Facilities

Access to the site is provided from Falls Road and Democracy Boulevard. Falls Road is classified as a major highway with a recommended right-of-way of 120 feet. The Master Plan recommends realignment of Falls Road along the Bullis School property frontage. The Applicant has proposed dedication boundaries for re-alignment of Falls Road which have been reviewed and approved by MDSHA. The Preliminary Plan incorporates the Master Plan required rights-of-way for Falls Road and Democracy Boulevard. Currently, sidewalks do not exist along Falls Road or Democracy Boulevard. As a result, the Applicant is required to construct an 8-foot wide shared use path along Democracy Boulevard and either construct or pay for the construction of the Falls Road shared use path along the Property's respective frontage. There is a Ride-On bus stop along the school's Falls Road frontage near the main entrance to the school. As required by MCDOT, the Applicant must provide a concrete bus pad or other improvements deemed necessary by MCDOT. The Planning Board finds the proposed access to the site and the internal circulation and walkways as shown on the preliminary plan will be safe and adequate for vehicles and pedestrians.

Other Public Facilities and Services

The Planning Board finds that other public facilities and services are available and adequate to serve this private institution. The Subject Property is served by existing public water and sewer connections. Gas, electric and telecommunications services are available to serve the property. Police stations, firehouses and health services are currently operating within the standards set by the applicable Growth Policy Resolution currently in effect. The Application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS) who have determined that the Property has adequate access for emergency vehicles.

- 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, including section 50-35(h)(2)(C) for adequate public validity period extensions. The proposed recorded parcel size, width, shape and orientation are appropriate for the location of the subdivision.

The proposed recorded parcel for the school facilities was reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The recorded parcel as proposed far exceeds the dimensional requirements for area, frontage, width and setbacks in the RE-2 zone because it reflects the appropriate boundary of the existing institutional use.

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

Environmental Guidelines

The Subject Property contains 11.35 acres of stream valley buffer (SVB) of which 8.75 acres are forested. The Applicant has proposed to plant another 1.01 acres of SVB for a total 9.85 acres of forested SVB. The areas of SVB that are not forested or planted are part of the pre-existing school. The forest conservation plan satisfies the applicable requirements for protection of environmentally sensitive areas.

Forest Conservation

The Applicant has a previously approved forest conservation plan (FCP) that was submitted as part of the special exception case for the site. Because the Preliminary Plan is considered a new application, a new preliminary FCP was required. The FCP submitted as part of the Preliminary Plan application addresses the expansion to the school's facilities and required site improvements such as sidewalks and bike paths.

The Subject Property contains 20.53 acres of forest; this number includes 19.43 acres of existing forest and 1.1 acres of forest cleared under the previously approved FCP. The Applicant proposes to clear 3.81 acres of forest and retain 16.72 acres of forest. The required calculations indicate that the FCP includes 0.12 acres on the positive side of the break-even point. As a result, additional planting is not required. The Applicant has, however, proposed 1.01 acres of forest planting within the stream valley buffer (SVB) to compensate for encroachments into the SVB that currently exist on the Property. The Planning Board finds the Application complies with all applicable requirements of 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 meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on August 29, 2007 which consists of on-site channel protection measures via two underground storage facilities and an existing on-site pond. On-site water quality control is to be provided for a total

area equivalent to or greater than the total new impervious area. Water quality for the shared use paths will be provided by adjacent grass swales.

6. *The Planning Board finds a ten year adequate public facilities period is appropriate for the proposed subdivision and an extended Adequate Public Facilities validity period of 121 months is granted.*

Chapter 50, the Subdivision Regulations, establishes a minimum of 5 years for the validity period of the adequate public facilities (APF) approval. However, this period can be extended if a phasing schedule is submitted and approved by the Planning Board. Per Section 50-20(c)(3)(C) of the Subdivision Regulations, the Applicant requested approval of an APF validity period for a maximum of ten (10) years. The Applicant submitted a phasing plan, as required, and requested that the APF validity period be imposed only on facility improvements which will directly result in an increase in enrollment, and therefore, vehicle trips. Such proposed improvements include a new Lower School with a maximum of 20,000 square feet of gross floor area and a new Upper School with a maximum of 70,000 square feet of gross floor area. Typically, the proposed phasing plan should stipulate the amount of construction an Applicant intends to complete within the initial 5 years of the validity period, but in this case, due to the significant fund raising period necessary for a private educational institution project of this size and scope the Applicant is uncertain about when construction will start. The Applicant plans to construct the Upper School first, and their intent is to begin construction as soon as possible after the plat is recorded.

The Planning Board finds a ten year validity period is justified even though the start date for construction may occur after 5 years because the APF approval does not require specific road improvements and the bike path construction along Falls Road and Democracy Boulevard will be required to at least be bonded at the time the plat is recorded. The Planning Board, therefore, finds that allowing additional time for school construction to begin is not adverse to the public interest and the extended APF period is granted.

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 land records of Montgomery County, Maryland or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is APR - 1 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 Presley, seconded by Commissioner Robinson, with Commissioners Hanson, Robinson, Cryor, and Presley present and voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, March 26, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board