



**MAY 21 2009**

**MCPB No. 09-35**  
**Preliminary Plan No. 120080440**  
**Hillmead-Bradley Hills**  
**Date of Hearing: March 19, 2009**

**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 September 5, 2008, East Limited Liability Co. ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 32,055 square feet of land located on the south side of Greentree Road, 200 feet west of Ewing Drive ("Property" or "Subject Property"), in the Bethesda/Chevy Chase Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080440, Hillmead-Bradley Hills ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated March 6, 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 19, 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

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<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.

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Approved as to  
Legal Sufficiency.

*Christina Sorento* 4/28/09

8787 Georgia Avenue, N.C. Planning Commission, Suite 100, Silver Spring, MD 20910 Director's Office: 301.495.4300 Fax: 301.495.1310

WHEREAS, on March 19, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Robinson; 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. 120080440 to create two lots on 32,055 square feet of land located on the south side of Greentree Road, 200 feet west of Ewing Drive ("Property" or "Subject Property"), in the Bethesda/Chevy Chase Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 2 lots for 2 one-family detached dwelling units.
- 2) The Applicant must comply with the conditions of approval for the preliminary tree save plan. Conditions include, but are not limited to, the requirement that the Applicant must adjust the proposed limits of disturbance (LOD) in the rear yard of proposed Lot 100, if necessary, to further avoid impacts to the critical root zone (CRZ) of specimen tree #3. 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 Applicant must dedicate and the record plat must show dedication of a variable width right-of-way measuring approximately 4,331 square feet along the Property frontage for Greentree Road.
- 4) The record plat must include a note stating that the front of any dwelling constructed on proposed Lot 100 must not be set back farther than 59 feet from the front property line and that the front of any dwelling constructed on proposed Lot 101 must not be set back farther than 39 feet from the front property line.
- 5) The Applicant must construct a five-foot-wide sidewalk along the Property frontage on Greentree Road, unless construction is waived by the appropriate government agency.
- 6) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated October 1, 2008. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated January 13, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).

- 9) Before any building permit can be issued, the Applicant must make the applicable school facilities payment to the MCDPS.
- 10) The record plat must show necessary easements.
- 11) 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 Bethesda/Chevy Chase Master Plan does not specifically address the Subject Property. The Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. Thus, in the case of the Subject Property, the Master Plan calls for retention of the existing R-60 zoning. The proposed subdivision complies with the recommendations adopted in the Master Plan in that it proposes one-family residential development consistent with surrounding development patterns and the current zoning designation. The proposed lots will be similar to surrounding lots with respect to dimensions, orientation, and shape, and the proposed residences will have a similar relationship to the public street and surrounding residences as existing residences in the area. The proposed subdivision will not alter the existing pattern of development or land use, therefore 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

The proposed subdivision does 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 proposed subdivision does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the Application is also not subject to Policy Area Mobility Review.

Access to the proposed lots will be provided by two separate driveways from Greentree Road. A five-foot-wide sidewalk is proposed on the Greentree Road frontage of the Property. No sidewalks exist elsewhere on Greentree

Road, but a wide shoulder on this street allows safe pedestrian circulation. Proposed vehicle and pedestrian access for the site will be safe and adequate.

#### Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service which has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as 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, but a school facilities payment must be made prior to issuance of building permits on the lots. Electrical, gas, 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.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections, including the requirements for resubdivision as discussed below. The proposed lot 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.*

There is no forest on the site and this Application is exempt from submitting a forest conservation plan.

- 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 on October 1, 2008. The stormwater management concept includes water quality control and recharge via drywells and grading to promote sheet flow. Channel protection is not required because the one-year post-development peak discharge is less than 2 cubic feet per second.

6. *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 (as delineated by Staff in the Staff Report) ("Neighborhood"), as analyzed below.*

Size: The lots in the delineated Neighborhood range from 7,067 square feet to 18,134 square feet. Ten of the lots are smaller than 8,000 square feet, twelve are between 8,000 and 12,000 square feet, and three are between 12,000 and 18,134 square feet. Proposed Lot 100 is 13,623 square feet in size and Proposed Lot 101 is 14,101 square feet in size. The two proposed lots are near the upper end of the size range. Two existing lots, at 14,117 square feet and 18,134 square feet, are larger than the proposed lots. Because creation of a third lot on the Subject Property is not possible due to frontage limitations and because the existing lot, at 32,055 square feet, is much larger than Neighborhood lots and is being divided into two lots that more closely match the character of existing lots, the Planning Board finds that the proposed lot sizes are in character with the size of existing lots in the Neighborhood.

Width: The lots in the delineated Neighborhood range from 53 feet to 110 feet in width. Ten of the lots have widths of less than 70 feet, twelve lots have widths between 70 and 100 feet, and the remaining thirteen lots have widths of more than 100 feet. Both of the proposed lots have widths of 60 feet. Although this is near the bottom of the range for width, there are several existing lots with a similar size. In addition, a larger lot width could be achieved by requiring a deeper front setback (width is measured at the front building line) that would be contrary to the desire to have the dwellings near the front of the lots in order to maintain appropriate relationships between the proposed houses and existing houses. The proposed lots will be in character with existing lots in the Neighborhood with respect to width.

Frontage: In a Neighborhood of 25 lots, lot frontages range from 60 feet to 155 feet. Twelve of the lots have frontages of less than 70 feet, eight lots have frontages between 70 and 100 feet, and the remaining five lots have frontages of more than 100 feet. The two proposed lots have frontages of 46 feet, which will be, by a significant margin, the smallest lots in the

Neighborhood. Despite the narrow frontages, the lots will create building sites that are in the same line and with a similar separation distance from other existing houses as those found on other lots in the Neighborhood. This is because the narrow frontages are created by side lot lines that converge towards the street at the front of the lot. The lots become wider towards the center, which leaves a sufficiently-wide space to locate the proposed dwellings, with each dwelling having an appropriate distance and orientation with respect to existing houses on adjacent lots. The two proposed houses will be side-by-side, oriented with the fronts towards the street, and will be set back a similar distance from the street as existing houses. Because of these characteristics, a casual observer on the street would not discern a difference between the proposed lots and existing Neighborhood lots with respect to frontage. The proposed Preliminary Plan includes a development data table that includes maximum front setbacks, in addition to the typically required minimum setbacks. The maximum setbacks are intended to insure that the dwellings built on the proposed lots will be built near the front of each lot, preserving the existing development pattern and maintaining appropriate relationships between the proposed dwellings and existing dwellings by avoiding placement of houses adjacent to the rear yard of existing houses. A condition is included with this approval that requires compliance with the proposed maximum front setbacks listed on the Preliminary Plan. With inclusion of this condition, the Planning Board finds that the proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage. The proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Area: The lots in the delineated Neighborhood range from 3,311 square feet to 9,610 square feet in buildable area. Ten of the lots have a buildable area less than 4,000 square feet, twelve are between 4,000 and 6,000 square feet, and three are between 6,000 and 9,610 square feet. Proposed Lot 100 has a buildable area of 7,140 square feet and proposed Lot 101 has a buildable area of 9,050 square feet. The two proposed lots are near the upper end of the area range. One existing lot, at 9,610 square feet, has a larger buildable area than the proposed lots. Because creation of a third lot on the Subject Property is not possible due to frontage limitations and because the existing lot, with a buildable area of 18,116 square feet, has a buildable area that is much larger than Neighborhood lots and is being divided into two lots that more closely match the character of existing lots, the Planning Board finds that the proposed lots will be of the same character as other lots in the Neighborhood with respect to buildable area.

Alignment: Seventeen of the 25 existing lots in the Neighborhood are perpendicular in alignment, four are radial, and the remaining four are corner

lots. The two proposed lots are perpendicular in alignment. The proposed lots are of the same character as existing lots with respect to the alignment criterion.

Shape: Twenty-two of the existing lots in the Neighborhood are rectangular, and three are irregularly shaped. The two proposed lots are irregularly shaped. Two of the three existing irregularly shaped lots are located immediately adjacent, on either side, to the Subject Property. The angled lot lines of these two properties also create an irregularly shaped lot on the Subject Property, and no other shape-lots are possible in this subdivision. The shapes of the proposed lots will be in character with shapes of the existing lots.

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

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

MAY 21 2009 BE IT FURTHER RESOLVED, that the date of this Resolution is \_\_\_\_\_ (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).

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**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 Cryor, seconded by

MCPB No. 09-35  
Preliminary Plan No. 120080440  
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Page 8 of 8

Commissioner Presley, with Chairman Hanson, Vice Chair Robinson, and Commissioners Cryor, Alfandre and Presley present and voting in favor of the motion at its regular meeting held on Thursday, May 7, 2009, in Silver Spring, Maryland.

A handwritten signature in cursive script, reading "Royce Hanson". The signature is written in black ink and is positioned above a horizontal line.

Royce Hanson, Chairman  
Montgomery County Planning Board