



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

JUG 5 2009

MCPB No. 09-51
Preliminary Plan No. 120070510
EZ Storage – Burtonsville Industrial Park
Date of Hearing: May 14, 2009

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 December 29, 2006, Siena Corporation (“Applicant”), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 3.04 acres of land located on Sandy Spring Road (MD 198) 400 feet west of the intersection of Star Point Drive (“Property” or “Subject Property”), in the Fairland Master Plan area (“Master Plan”); and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120070510, EZ Storage – Burtonsville Industrial Park (“Preliminary Plan” or “Application”); and

WHEREAS, Planning Board staff (“Staff”) issued a memorandum to the Planning Board, dated February 1, 2008, setting forth its analysis, and recommendation for denial, of the Application (“First Staff Report”); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on February 14, 2008, the Planning Board held a public hearing on the Application (“First Hearing”); and

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

WHEREAS, on February 14, 2008, the Planning Board denied the Application, on motion of Commissioner Robinson; seconded by Commissioner Bryant; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Robinson voting in favor; and

Approved as to
 Legal Sufficiency:

Christina Sonent 7/8/09

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WHEREAS, subsequent to the Planning Board's denial of the Application, the Applicant filed a petition for judicial review; and

WHEREAS, on March 17, 2009, the Circuit Court for Montgomery County issued an opinion and order that remanded the Application to the Planning Board with instructions that it approve the Application; and

WHEREAS, Staff issued a second memorandum to the Planning Board, dated May 1, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Second Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on May 14, 2009, the Planning Board held a second public hearing on the Application ("Second Hearing"); and

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

WHEREAS, on May 14, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Robinson; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Robinson voting in favor; Commissioner Presley 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. 120070510 to create one lot on 3.04 acres of land located on Sandy Spring Road (MD 198) 400 feet west of the intersection of Star Point Drive ("Property" or "Subject Property"), in the Fairland Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one lot for a self-storage building containing 147,142 sq. ft of floor area, including 67,668 square feet below grade (cellar) and 79,474 square feet above grade.
- 2) The Applicant must comply with the conditions of 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 Applicant must dedicate and the record plat must show dedication of an approximately 5,655-square-foot, semi-circular area for the cul-de-sac of the proposed Dino Drive, as shown on the Preliminary Plan.
- 4) The Applicant must participate in the pro rata funding of future Dino Drive as a participant in Dino Drive Road Club per the Trip Generation Percentage

- funding terms of the June 15, 2000 Participation Agreement as applicable to the Subject Property. This condition must be noted on the record plat.
- 5) The grade establishment for Dino Drive may be as proposed by the May, 2007 Amendment to Dino Drive street grades submitted in conjunction with the Preliminary Plan, with final grade establishment for future Dino Drive, including confirming compliance with the applicable vertical and horizontal curve limitations as prescribed in the Road Club, to be approved by the County at the time of the site plan approval for this project.
 - 6) The Applicant must construct a site access driveway from Dino Drive within nine months of the County Executive's order accepting public maintenance for the segment of Dino Drive from the end of the cul-de-sac to the limit of existing improvements in the event that the Maryland State Highway Administration closes site access to the existing service road accessing MD 198 as shown on the Preliminary Plan.
 - 7) The record plat must reflect a common ingress/egress and utility easement to provide future access for the adjacent parcels 844, 845, 884, and 900 (AKA "Star Pointe Plaza property") to Dino Drive. The location, alignment, and dimensions of this easement will be determined prior to approval of the certified site plan.
 - 8) Prior to recordation of the plat, the Applicant must exercise commercially reasonable efforts to secure an easement granted by the owner of the adjacent parcels 844, 845, 884, and 900 (AKA "Star Pointe Plaza property") for the proposed off-site storm drain pipe and outfall structure. In the event that the Applicant is not able to secure this easement, the Applicant must redesign the storm drain pipe and outfall structure so that they are not located on the Star Pointe Plaza property and must obtain any necessary MCDPS approvals prior to recordation of the plat.
 - 9) The Applicant must comply with the conditions of the MCDPS stormwater management approval letter dated October 10, 2007. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 10) The Applicant must comply with the conditions of the State Highway Administration (MDSHA) letter dated March 2, 2007. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 11) The Applicant must comply with the conditions of the Montgomery County Department of Public Works and Transportation (MCDPWT, now renamed MCDOT) letter dated November 21, 2007. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 12) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).

- 13) The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to issuance of access permits.
- 14) No clearing, grading or recording of plats prior to certified site plan approval.
- 15) Final approval of the number, size, and location of buildings, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 16) The record plat must show necessary easements.
- 17) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) 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.*

At the First Hearing, the Planning Board found that the Preliminary Plan was not in substantial conformance with the Master Plan with respect to creating a diversity of uses and a diversified but unified employment center in the Burtonsville Employment Area. The Planning Board continues to believe that the Preliminary Plan is not in substantial conformance with the Master Plan for the reasons previously stated, however, the court's order requires that the Planning Board find that the Preliminary Plan substantially conforms to the Master Plan. Therefore, the Planning Board finds that 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 lot 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. The Application predates requirements for Policy Area Mobility Review. Therefore, the Application is also not subject to Policy Area Mobility Review.

Access is proposed via a driveway from an existing service road in the Sandy Spring Road (MD 198) right-of-way. An additional driveway is proposed at the southeastern property line to access the site from a future extension of Dino Drive. This additional driveway will be constructed in the future when the extension of Dino Drive is constructed and after MDSHA closes the existing

service road to public use. This driveway will also provide access to Dino Drive for anticipated future development on an adjacent property. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

A road club agreement exists between several area property owners for construction of Dino Drive. One segment of the street was constructed in 2004 pursuant to approval of an earlier development project (Burtonsville Self Storage). Approval of a Preliminary Plan for the Subject Property is subject to the terms of the road club agreement, including payment of a pro-rata share of road construction costs.

Other Public Facilities and Services

Public facilities and services are available and will be safe and 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 schools, police stations, firehouses and health services are operating according to the Growth Policy resolution currently in effect and will be safe and adequate to serve the Property. 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.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. Taking into consideration the court's decision regarding substantial conformance with the Master Plan, the Application meets all applicable sections of the Subdivision Regulations. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the Burtonsville Employment Area Overlay Zone as specified in the Zoning Ordinance. The lot 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 are 2.4 acres of existing forest on the Property. Under the proposed forest conservation plan, the entire 2.4 acres of forest are proposed to be removed. The Application is subject to a reforestation requirement of 1.42 acres. This requirement is proposed to be met by securing forest credits within an approved forest bank. This is acceptable because there are no priority planting areas on-site. The Preliminary Plan meets all applicable requirements of the county Forest Conservation Law.

- 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 October 10, 2007. The stormwater management concept includes the use of a sand filter and recharge trenches to provide on-site water quality control and groundwater recharge. Channel protection is not required because the one-year post-development peak discharge is less than two cubic feet per second.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 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 this Resolution constitutes the written opinion of the Board, and that the date of this Resolution is AUG 5 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

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Planning Commission on motion of Commissioner Robinson, seconded by Commissioner Presley, with Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley voting in favor of the motion, at its regular meeting held on Thursday, July 16, 2009, in Silver Spring, Maryland.

A handwritten signature in black ink, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board