

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

JUN 29 2009

**MCPB No. 09-64**  
**Pre-Preliminary Plan No. 720080150**  
**Sullivan Property**  
**Date of Hearing: April 23, 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 pre-preliminary plan applications; and

WHEREAS, on February 20, 2008 Robert E. Sullivan ("Applicant"), filed a pre-preliminary plan application, including a Concept Plan, for Planning Board approval, pursuant to the provisions of Section 50-33A of the Subdivision Regulations for a property in the RC zone; and

WHEREAS, the Concept Plan depicted a subdivision of property that would create two lots on 9.0 acres of land located on the north side of Ashton Road (MD 108), approximately 950 feet northeast of Mink Hollow Road ("Property" or "Subject Property"), in the Sandy Spring-Ashton Master Plan area ("Master Plan"); and

WHEREAS, the Applicant requested a decision by the Planning Board on the following matter:

- 1) A finding pursuant to Section 50-29(b)(2) of the Subdivision Regulations that a lot without street frontage for the child of the property owner is justified.

WHEREAS, Applicant's pre-preliminary plan application was designated Pre-Preliminary Plan No. 720080150, Sullivan Property ("Pre-Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated April 8, 2009 and revised on April 16, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

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Approved as to Legal Sufficiency: *Christina Sorensen for DR 6/12/09*  
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WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on April 23, 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

WHEREAS, on April 23, 2009, the Planning Board approved the proposed lot frontages shown on the Concept Plan subject to the condition set forth in the Staff Report, on motion of Commissioner Robinson; seconded by Commissioner Presley; with a vote of 4-0, Commissioners Cryor, Hanson, Presley and Robinson voting in favor; Commissioner Alfandre being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board determines that the street frontages shown on the Pre-Preliminary Plan No. 720080150 for the creation of two one-family residential lots on 9.0 acres of land located on the north side of Ashton Road (MD 108), approximately 950 feet northeast of Mink Hollow Road ("Property" or "Subject Property"), in the Sandy Spring-Ashton Master Plan area ("Master Plan") are acceptable, subject to the following condition:

- 1) The lot without frontage must be created for the use of the child of the property owner.

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 above condition, that:

- 1. There are exceptional circumstances which apply to this Property that justify creation of a lot without frontage on a public street.*

The Pre-Preliminary Plan proposes to subdivide a 9.0 acre unplatted parcel into a 7.0 acre lot, "Proposed Lot 1" and a 2.0 acre lot, "Proposed Lot 2", for the child of the property owner per Section 59-C-9.73(b)(4).

The Applicant proposes to record the 2.0 acre lot for the child of the property owner as a lot without frontage. Section 50-29(a)(2) of the Subdivision Regulations requires lots to abut on a street that has been dedicated to public use or that has acquired the status of a public road, however, in exceptional circumstances, the Planning Board may approve not more than two lots on a private driveway if access is adequate to serve the lot(s) for emergency vehicles, for installation of public utilities, and the lot(s) are accessible for other public

services and not detrimental to future subdivision of adjacent lands. Due to the location of the existing house on Proposed Lot 1, a pipestem along the western property line to Proposed Lot 2 is impractical because there is not enough distance between the house and the property line. Alternatively, a pipestem along the eastern property line would create an ownership line that could inhibit agricultural use on the Property if the lot were to be sold, and it results in an odd lot configuration. The Planning Board finds the better alternative is to create a lot without frontage that retains access via a recorded easement on Proposed Lot 1.

By approval letter dated March 26, 2009, the Montgomery County Department of Fire and Rescue determined the proposed private driveway will be adequate for emergency vehicles and other public services. An ingress/egress and utilities easement on the driveway will allow for the installation of public utilities. The proposed lot without frontage will not adversely affect the future subdivision of adjacent properties. Therefore, The Planning Board finds creation of a lot without frontage is justified and supports submission of a preliminary plan that includes a lot without frontage for the child of the property owner.

BE IT FURTHER RESOLVED, that this Pre-Preliminary Plan binding review will remain valid for 90 days from the date of the Planning Board's action at the public hearing. The Applicant must file a preliminary plan application for the proposed subdivision within 90 days of the action of the Board on the Pre-Preliminary Plan. Otherwise, the Pre-Preliminary Plan approval will expire, unless it is extended by action of the Planning Board; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board, and that the date of this Resolution is MAR 29 2009 (which is the date that this Resolution is mailed to all parties of record); and

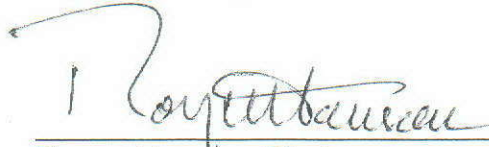
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland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

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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 Alfandre, 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, June 18, 2009, in Silver Spring, Maryland.

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

Royce Hanson, Chairman  
Montgomery County Planning Board