



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

MCPB No. 09-68
Preliminary Plan No. 120070540
Cabin John Park
Date of Hearing: June 4, 2009

AUG - 6 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 January 10, 2007, Hemingway Homes ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 5 lots on 1.90 acres of land located on the south side of MacArthur Boulevard in the southwest corner of the intersection with 79th Street ("Property" or "Subject Property"), in the Bethesda-Chevy Chase planning area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070540, Cabin John Park ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 11, 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 July 24, 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

WHEREAS, on July 24, 2008, the Planning Board accepted a request by the Applicant to defer the Application so that the Plan may be revised to 4 lots, on a motion of Commissioner Alfandre and seconded by Commissioner Cryor; with a vote of 4-1, Commissioners Alfandre, Cryor, Hanson and Presley voting in favor and Commissioner Robinson voting to not support the motion; and

Approved as to
 Legal Sufficiency: 

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WHEREAS, Planning Board staff ("Staff") issued a revised memorandum to the Planning Board, dated May 22, 2009, setting forth its analysis, and recommendation for approval of a revised Application for 4 lots, subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on June 4, 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 June 4, 2009 the Planning Board approved the Application subject to certain conditions, on a motion of Commissioner Robinson and seconded by Commissioner Cryor; 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. 120070540 to create 4 lots on 1.90 acres of land located on the Subject Property, in the Bethesda-Chevy Chase master plan area, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to four (4) lots.
- 2) The applicant must comply with the conditions of approval for the preliminary forest conservation plan, including revisions to the Tree Save Plan. The applicant must satisfy all conditions prior to recording 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 common ingress/egress and utility easements over all shared driveways.
- 4) The applicant must comply with the conditions of the Montgomery County Department of Public Works and Transportation (MCDPWT) letter dated May 27, 2008 and as updated April 28, 2009. These conditions may be amended by MCDPWT provided the amendments do not conflict with any other conditions of the Preliminary Plan approval.
- 5) Prior to issuance of building permits, the applicant must comply with the conditions of access in the U.S. Army Corps of Engineers letter dated September 18, 2007.
- 6) The applicant must comply with the conditions of the MCDPS stormwater management approval dated June 27, 2008 and as updated April 16, 2009. These conditions may be amended by MCDPS provided the amendments do not conflict with any other conditions of the Preliminary Plan approval.

- 7) Prior to recordation of plat, the applicant must provide proof that existing structures have been properly razed with permit(s) from MCDPS.
- 8) The applicant must make the applicable School Facilities Payment prior to issuance of building permits.
- 9) 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.
- 10) The record plat must show other necessary easements.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, the Board hereby expressly adopts and incorporates by reference the Staff report, 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 make a specific recommendation for the Property but does recommend a continuation of the R-90 zoning for residential uses in this area of the Master Plan. The lots shown on this plan comply with the R-90 zone, and residential use is supported by the Master Plan. Therefore, the proposed subdivision substantially conforms to the recommendations adopted in the Master Plan.

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

The Plan has been reviewed for adequacy of all public facilities and services. Public water and sewer service is adequate to serve the new lots. All utilities, including Washington Gas, Verizon, and PEPCO, have reviewed the plans and have found that their respective utilities are adequate to serve the proposed lots. The current Annual Growth Policy states that the application is subject to payment of a School Facilities Payment since it is in the Walt Whitman cluster which has an elementary school capacity exceeding 105%. Other public services such as police stations, firehouses and health services are operating within the standards set by the Growth Policy Resolution currently in effect. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. The Board finds that the proposed lots can be adequately served by all public facilities and services.

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

The application meets all applicable sections of Chapter 50, the Subdivision Regulations. The existing neighborhood consists of a variety of lot shapes, sizes, orientation and widths. In comparing the proposed lots to the existing lots staff finds that the proposed lots exhibit many of the same characteristics of the existing neighborhood with respect to lot size, width, shape and orientation and that they are appropriate for the location of the subdivision.

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

The Applicant proposes to meet the afforestation/reforestation requirement of Chapter 22A off-site via fee-in-lieu or in an off-site mitigation bank. On-site forest conservation easements were discussed by the Planning Board and were not supported. The applicant has prepared and submitted a tree save plan for many of the large and specimen trees that are to remain. The tree save plan submitted includes the use of root aeration matting, fertilization and watering to enhance the survivability of the trees. The details of the off-site planting will be determined at the time of the Final 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.*

A stormwater management plan was approved by the Montgomery County Department of Permitting Services on March 5, 2007, and updated on June 27, 2008. The stormwater management concept consists of on-site water quality controls and recharge using non-structural methods. Quantity control will not be required because the post development discharge levels will be less than 2.0 cubic feet per second. The requirement for a stormwater management plan concept to be approved at the time of Planning Board consideration has been met.

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.*

Frontage: The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage. All four of the proposed lots have frontages within a range of 74 to 144 feet and within the range of lot frontages

(25-248 ft.) for the Neighborhood. Staff finds that the lots have a high correlation with the frontage characteristic of the defined Neighborhood.

Alignment: The proposed lots are of the same character as existing lots with respect to the alignment criterion. The majority of lots in the Neighborhood align perpendicularly to the street, although four lots do have side lot lines that intersect the right-of-way at an askew angle. The proposed lots align generally in a perpendicular manner and, therefore, have a high correlation with the character of lots in the Neighborhood with respect to alignment.

Size: The proposed lot sizes are in character with the size of existing lots in the neighborhood. The range of lot sizes for the proposed lots is from 15,120 square feet to 29,852 square feet. The range of lot sizes in the existing Neighborhood range from 8,767 square feet to 26,896 square feet. One of the proposed lots at 29,852 square feet and will be the largest. Staff has examined the Neighborhood lots and finds that of the 21 lots in the Neighborhood, eleven are 20,000 square feet or greater in size with the largest at 26,896 square feet. These lots are substantially larger than the minimum lot size required in the R-90 zone (9,000s.f.). In fact, the average lot size in the Neighborhood is 17,456 square feet, almost twice the minimum size required. Moreover, the 29,896 square foot lot is smaller than the largest lot currently on the Subject Property. Because of the large lot sizes found within this Neighborhood, staff finds that a lot of 29,896 square feet has a high correlation with the Neighborhood lots and is of the same character with respect to size.

Shape: The shapes of the proposed lots will be in character with shapes of the existing lots. There are a wide variety of lot shapes within this Neighborhood; the proposed lot shapes, generally rectangular, can be found in numerous instances within the defined Neighborhood. The proposed lots have a high correlation with other lots in the Neighborhood with respect to shape and are, therefore, of the same character.

Width: The proposed lots will be in character with existing lots in the neighborhood with respect to width. The range of widths for the existing lots is from 75 feet to 165 feet. The proposed lots will range in width from 92 feet to 130 feet. Staff finds that all of the proposed lots are within the range of existing lots. They are of the same character as the other lots in the Neighborhood with respect to width.

Area: The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area. The range in buildable areas of the proposed lots is 4,185 square feet to 9,715 square feet which is well within the

range of lot areas for the defined Neighborhood which is 2,100 square feet to 13,600 square feet.

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 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 Planning Board in the matter, and the date of this Resolution is AUG - 6 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 Alfandre, seconded by Commissioner Cryor, with Commissioners Hanson, Alfandre, and Cryor voting in favor of the motion, and with Commissioner Wells-Harley abstaining and Commissioner Presley absent, at its regular meeting held on Thursday, July 30, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board