



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

MCPB No. 09-82
Preliminary Plan No. 120090170
Manor Park - Section I
Date of Hearing: May 21, 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 December 11, 2008, Christopher T. Stathes ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 1.03 acres of land located on Georgia Avenue (MD 97) service road, approximately 1000 feet south of Norbeck Road (MD 28) ("Property" or "Subject Property"), in the Aspen Hill master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090170, Manor Park – Section I ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 27, 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 May 21, 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 May 21, 2009 the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Alfandre, Cryor, Hansen, 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. 120090170 to create 2 lots on 1.03 acres of land located on Georgia Avenue (MD 97) service road, approximately 1000 feet south of Norbeck Road

Approved as to
 Legal Sufficiency:

Christina Sonnet 7/15/09

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(MD 28) (“Property” or “Subject Property”), in the Aspen Hill 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 residential dwelling units.
- 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. Conditions include but are not limited to a final forest conservation plan that must contain an invasive management plan for the removal of all bamboo on the Subject Property.
- 3) The proposed development shall comply with MNCPPC noise compatibility guidelines:
 - a. At time of building permit, an acoustical engineer must certify through building shell analysis that interior noise levels will not exceed 45 dBA L_{dn} .
 - b. The builder must construct the buildings in accordance with these acoustical recommendations. Any changes affecting acoustical performance must be approved by the acoustical engineer, with copy to MNCPPC Staff.
 - c. The certification and builder acceptance letter must be provided to MNCPPC Environmental Planning Staff before building permits are approved.
- 4) Prior to building permit, the Applicant must construct a 5 foot-wide sidewalk within the right-of-way along the Georgia Avenue service road property frontage, off-set two feet from the property boundary.
- 5) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated November 20, 2008. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated January 26, 2009. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to issuance of access permits.
- 8) 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.
- 9) 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 as set forth in the Staff Report, 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 Aspen Hill Master Plan makes no specific recommendations regarding this Property or adjacent properties. The Master Plan only reconfirms the existing R-200 zoning for the area. This Preliminary Plan of subdivision contributes to the established nature of the Manor Country Club neighborhood in that it proposes to record 2 lots in conformance with the R-200 zoning standards with a perpendicular relationship to the street and a compatible relationship to abutting properties. The Planning Board finds that the Preliminary Plan substantially conforms to the Aspen Hill Master Plan.

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

Roads and Transportation Facilities

The proposed lots do 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, Transportation Planning Staff has determined the Application is not subject to Policy Area Mobility Review because the proposed development generates fewer than 3 new peak-hour trips within the weekday morning and evening peak periods. The Georgia Avenue service road on which the Property is located is part of the 250 feet of required right-of-way for Georgia Avenue, a state highway. As delineated on the Preliminary Plan, the right-of-way is adequate and no additional dedication is necessary. A sidewalk does not currently exist along the Subject Property's frontage but future construction of a sidewalk is included in the MDSHA Norbeck Road (MD 28) and Georgia Avenue (MD 97) Interchange design. The Applicant is, therefore, required to construct a 5 foot-wide sidewalk along the entirety of the Property frontage in anticipation of the funding of this project and installation of the remaining improvements in the future. The Planning Board finds proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public and private improvements.

Other Public Facilities and Services

The Planning Board also finds that other public facilities and services are available and will be adequate to serve the proposed dwelling units. The Application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. Area schools are operating at adequate levels; therefore, the Subject Property is not within a school moratorium area and no facilities payment is required. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the lots.

- 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. The proposed size, width, shape and orientation of the lots is appropriate for the location of the subdivision. The lots were reviewed for compliance with the dimensional requirements for the R-200 zone as specified in the Zoning Ordinance. The Planning Board finds that the lots as proposed are appropriate for the location of the subdivision and will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

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

A preliminary forest conservation plan was required as part of the Preliminary Plan submission. There is a planting requirement of 0.21 acres. All forest conservation requirements are being met off-site. One 38" red oak and twelve smaller trees will be removed as a consequence of the proposed development; no off-site specimen or large trees will be significantly affected. An invasive species management plan must be submitted as part of the final forest conservation plan to detail the removal of two large stands of bamboo on the Property. The Planning Board finds the Application satisfies the requirements of the 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 November 20, 2008 which includes on-

site water quality control and recharge via drywells, rooftop disconnect and pervious pavement for proposed Lot 33. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 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 in this 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 Presley, seconded by Commissioner Alfandre, with Commissioners Hanson, Alfandre, and Presley voting in favor of the motion, and with Commissioner Cryor absent and one Planning Board position vacant, at its regular meeting held on Thursday, July 23, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board