



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

MCPB 09-86
Preliminary Plan No. 12006121A
Henderson Corner
Date of Hearing: July 23, 2009

AUG 4 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 March 23, 2009, Henderson Corner at 355, LLC, ("Applicant"), filed an application for approval of a limited amendment to a preliminary plan of subdivision of property on a recorded parcel approximately 1.27 acres in size located on Henderson Corner Road ("Property" or "Subject Property") in the southwest quadrant of the intersection with Ridge Road (MD-27) within the Germantown master plan area ("Master Plan"); and

WHEREAS, on January 25, 2007, the Planning Board approved Preliminary Plan No. 120061210 for the creation of one lot for a 4,100 square foot bank with a maximum of three drive-through windows on the Property

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12006121A, Henderson Corner ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated July 13, 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 Planning Board staff ("Staff") and the staff of other governmental agencies, on July 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 July 23, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, N.C. 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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Commissioner Alfandre; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Presley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved a limited amendment to a preliminary plan of subdivision of property on a recorded parcel approximately 1.27 acres in size located on Henderson Corner Road ("Property" or "Subject Property") in the southwest quadrant of the intersection with Ridge Road (MD-27) within the Germantown master plan area ("Master Plan"), subject to the following conditions:

1. Approval under this preliminary plan amendment is limited to a 3,188 square foot convenience store and gas station with twelve (12) covered pumping stations.
2. The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated June 26, 2008. These conditions may be amended by MCDPS, provided the amendments do not conflict with any other condition of the preliminary plan approval.
3. No clearing or grading is allowed prior to certified site plan approval.
4. The proposed development must comply with the conditions of the Final Forest Conservation Plan approved on February 8, 2007.
5. The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated June 21, 2006. These conditions may be amended by MCDOT, 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 May 11, 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 until February 25, 2014.

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 Subject Property is located within the Germantown Master Plan area. The Master Plan specifically identifies the subject property and surrounding parcels, and recommends limited retail use under the C-3 Zone for those parcels. The uses identified include a convenience food and beverage store, a gas station, a car wash, and a bank. The master plan further states that development of this property should consider placement of the buildings, landscaping and berming, and building design in relation to the natural features of the site. The development of the property should be compatible with the existing residential development near MD-27, and particular care should be taken in the design, height, and location of exterior lighting fixtures.

The Applicant is proposing to construct a convenience store and gas station, which is consistent with the uses identified specifically in the master plan for this site. The Applicant is also proposing to incorporate design features that recognize the need for a "civic gesture" at this location by using brick materials for the building, and constructing a dual faceted clock tower at the northeast corner of the building, with one clock facing east toward the intersection of Henderson Corner Drive and Ridge Road and the other facing south toward Henderson Corner. The application provides adequate landscaping to effectively screen the parking lot from Henderson Corner Road and Ridge Road, and landscaping is also proposed to shield the retaining wall located along Ridge Road. Lastly, the Applicant has worked with staff to lower, shade, and relocate exterior lighting fixtures with respect to the nearby residential development.

Therefore, the Planning Board finds that the proposed amendment continues to substantially conform to the recommendations of the Germantown Master Plan.

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

Adequate vehicular access to the commercial facility is provided by a driveway connection to Henderson Corner Road. A left turn lane through the median is proposed on Henderson Corner Road, and the exit is designed as a right turn only. Pedestrian access is provided via sidewalks that connect to Henderson Corner Road.

An APF review was approved as part of the original Preliminary Plan application. The trips generated by the proposed amendment for the 3,188 square-foot convenience store are fewer than the number tested in the original APF approval.

Therefore, the Planning Board finds that the previously approved APF is still valid until February 25, 2014.

Based on the traffic study conducted for the previous use, the weekday morning and evening peak-hour capacity analysis indicated that under Total (Build) traffic conditions, Critical Lane Volume (CLV) at the study intersections would be below the applicable congestion standard of 1,450 CLV for the Policy Area. The application continues to satisfy the LATR requirements of the APF test. The Policy Area Mobility Review (PAMR) test was not required because the original Preliminary Plan was approved prior to January 1, 2008.

Therefore, the Planning Board finds the proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed private improvements.

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

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved as part of a Forest Conservation Plan Exemption (#42008079E) on June 16, 2006. There are no regulated environmental features onsite such as streams, wetlands, 100-year floodplain, environmental buffers, steep slopes, or highly erodible soils.

The Preliminary Forest Conservation Plan was previously approved by the Planning Board with the original application, and is still applicable. The plan continues to remove the 0.99 acres of on-site forest and meet reforestation requirements with a combination of landscape plantings and fee-in-lieu payment. The Final Forest Conservation Plan was approved in February 8, 2007 and the Applicant has already met the 0.67 acre forest planting requirement through a fee-in-lieu payment

Therefore, the Planning Board finds the Preliminary Plan continues to meet all applicable requirements of the county Forest Conservation Law.

4. *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 site on August 22, 2003. The stormwater management concept consists of on-site water quality control via a storage based Stormfilter with structural pretreatment and onsite recharge via 2 drywells.

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 Resolution constitutes the written opinion of the Planning Board, and that the date of this Resolution is AUG 4 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