



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

FEB -1 2010

MCPB No. 09-142
Preliminary Plan No. 120080310
Yazdi Property
Date of Hearing: November 19, 2009

MONTGOMERY COUNTY PLANNING BOARD

CORRECTED RESOLUTION¹

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 May 28, 2008, Susan Yazdi ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 42,104 square feet of land located on the east side of Quince Orchard Road, across from the intersection of Pissaro Drive ("Property" or "Subject Property"), in the Potomac Subregion Master Plan area ("Master Plan"); and

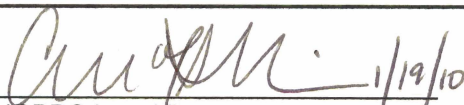
WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080310, Yazdi Property ("Preliminary Plan" or "Application"); and

WHEREAS, on February 19, 2009, upon the Applicant's request, the Planning Board deferred taking any action on the Application and scheduled it to be heard at a later date; and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated November 6, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

¹This is a correction to a resolution adopted by the Planning Board on December 3, 2009. The original resolution was not mailed.

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

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

WHEREAS, on November 19, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Wells-Harley; seconded by Commissioner Presley; with a vote of 3-0, Commissioners Hanson, Presley, and Wells-Harley voting in favor; Commission Alfandre absent; and with one seat being vacant.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120080310 to create two lots on 42,104 square feet of land located on the east side of Quince Orchard Road, across from the intersection of Pissaro Drive ("Property" or "Subject Property"), in the Potomac Subregion Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to two lots for two one-family detached dwelling units.
- 2) The Applicant must comply with the conditions of approval for the final tree save plan. The Applicant must satisfy all conditions prior to any clearing, grading, or demolition on the site.
- 3) The Applicant must dedicate and the record plat must show dedication of 40 feet of right-of-way, as measured from the centerline, along the Property frontage for Quince Orchard Road.
- 4) The record plat must reflect common ingress/egress and utility easements over the shared driveway.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated April 24, 2008. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated December 30, 2008. These conditions may be amended by MCDOT, as long as 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 MCDOT prior to recordation of plat(s).
- 8) Before any building permit is issued, the Applicant must make the applicable school facilities payment to MCDPS.

- 9) Any building permits for one-family residences that are issued pursuant to this Preliminary Plan must show that the buildings are to be built in substantially the same locations and orientations as shown on the certified Preliminary Plan.
- 10) Prior to approval of the record plat, the Applicant must remove the existing dwelling, which will encroach into the required rear yard area for proposed Lot 1, from the Subject Property.
- 11) The record plat must show necessary easements.
- 12) 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 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 Potomac Subregion Master Plan does not specifically address the Subject Property. The Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. Thus, in the case of the Subject Property, the Master Plan calls for retention of the existing R-200/TDR zoning. Although the R-200/TDR allows optional method development with the use of transferable development rights, the proposed subdivision is a standard method development that does not use TDRs. However, the proposed subdivision complies with the recommendations adopted in the Master Plan in that it proposes one-family residential development consistent with surrounding development patterns and the current zoning designation. The proposed lots will be similar to surrounding lots with respect to dimensions, orientation, and shape, and the proposed residences will have a similar relationship to the public street and surrounding residences as existing residences in the area. The proposed subdivision will not alter the existing pattern of development or land use, consistent with the Master Plan recommendation to maintain the existing land use.

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

Roads and Transportation Facilities

The proposed subdivision 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. In addition, the proposed subdivision does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the Application is also not subject to Policy Area Mobility Review.

Access to the proposed lots will be provided by a shared driveway from Quince Orchard Road. An existing sidewalk on Quince Orchard Road provides pedestrian access. Proposed vehicle and pedestrian access for the site will be safe and adequate.

Other Public Facilities and Services

Public facilities and services are available and will be 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 who 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 adequate to serve the Property. The Application is not within a school moratorium area, but a school facilities payment must be made prior to issuance of building permits on the lots. Electrical, gas, 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. The Application meets all applicable sections. The proposed subdivision will create two 20,000-square-foot lots, one of which will front directly on Quince Orchard Road, and the other will be a pipestem lot located behind the first lot. This configuration was not seen as ideal, but no other subdivision layout is possible given the small size of the Subject Property. In addition, a subdivision with a similar pipestem layout is located immediately adjacent to the Subject Property to the north. The proposed subdivision mirrors the layout of the existing adjacent subdivision. There is only one additional property in the immediate vicinity of the site that may be large enough to be subdivided into two lots. If it were subdivided it would also produce a pipestem layout, and it would also be adjacent to another existing pipestem subdivision. Since only one property remains available for subdivision, approval of the Application will not create a trend-setting precedent in the neighborhood.

The proposed lot line separating the two proposed lots is fairly far towards the rear of the Subject Property, meaning that the house location on the rear lot will be close to the rear of the Property. But because each of the two lots are either exactly at the minimum lot size of 20,000 square feet or just slightly larger, the proposed lot line between the two lots cannot be moved closer to the front of the Property than what is being proposed. This, however, is in character with the adjacent property to the north, which also was recently subdivided and a new house was placed at a similar lot depth to what is now proposed. The rear proposed lot will be of similar size to the adjacent lots to its rear (east), and the future house on this lot will have an appropriate rear-to-rear orientation to the existing house on the lot to the east.

As described above, the layout has been modified since the original submission because the Planning Board found that the layout created a potentially unsatisfactory relationship between the two future houses. The front of the rear house was facing the back of the front house in the original plan, but now the houses are proposed to be set at an angle towards the southwest corner of the lot, with the front house moved towards the northern lot line and the rear house moved towards the southern lot line. This angle allows the rear house to face the street without facing directly into rear of the front house. A condition is included that requires building permits issued pursuant to this approval to show that the proposed one-family residences are to be built substantially in the same location and orientation as shown on the Preliminary Plan.

The lots were reviewed for compliance with the dimensional requirements for the R-200 zone (i.e., R-200/TDR with standard method development) as specified in the Zoning Ordinance. The lots 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 plan.

The Planning Board, therefore, finds that the proposed lot size, width, shape and orientation 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.*

There is no forest on the site, and this Application is exempt from submitting a forest conservation plan. A tree save plan, however, was required to be submitted with the Preliminary Plan. The tree save plan shows the protection and retention of seven of the eight significant trees on-site or adjacent to the site. Approval of a variance for removal of the one significant tree is not

required because such a variance is only necessary when approval of a forest conservation plan is also required.

- 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 on April 24, 2008. The stormwater management concept includes water quality control and recharge via nonstructural methods. Channel protection is not required because the one-year post-development peak discharge is less than 2 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

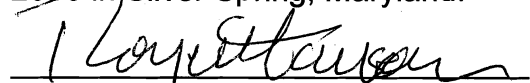
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB - 1 2010 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chairman Hanson, Vice Chair Wells-Harley, and Commissioners Alfandre and Presley present and voting in favor of the motion at its regular meeting held on Thursday, January 28, 2010 in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board