

MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-105
Preliminary Plan No. 120090320
Finlandia
Date of Hearing: July 8, 2010

SEP 29 2010

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 June 9, 2009, Whyatt C. Johnson ("Applicant"), filed an application for approval of a preliminary plan of subdivision for the resubdivision of property that would create two (2) lots on approximately 5.93 acres of land that is zoned RE-2. The Subject Property is located on the south side of Hawkins Creamery Road, approximately 500 feet east of Silver Crest Drive ("Property" or "Subject Property"), in the Damascus Master Plan Area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090320, Finlandia ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated June 28, 2010, 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 8, 2010, 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 8, 2010, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Alfandre, Carrier, and Wells-Harley voting in favor, Commissioners Dreyfuss and Presley absent.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, NMCPPC Legal Department 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120090320 to create two (2) lots on approximately 5.93 acres of land that is zoned RE-2. The Subject Property is located on the south side of Hawkins Creamery Road, approximately 500 feet east of Silver Crest Drive ("Property" or "Subject Property"), in the Damascus Master Plan Area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to two one-family detached residential lots.
- 2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan prior to recording of a plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit, as applicable.
- 3) The Applicant must comply with the conditions of the MCDPS stormwater management concept approval dated March 30, 2009. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Applicant must comply with the conditions of the MCDPS, Wells and Septic Section approval dated August 21, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated April 20, 2010. These conditions may be amended by MCDOT, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat.
- 7) The certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints and driveway locations shown on the Preliminary Plan are illustrative. Final building locations and associated driveways and parking will be determined at building permit. Please refer to the zoning data table for development standards such as setbacks, building restriction lines and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 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) The record plat must show necessary easements.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff and 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 Subject Property is located in the Damascus Master Plan area. The proposal is consistent with the land use and zoning recommendations of the Damascus Master Plan. This particular property is located in a neighborhood transition area. The Plan states:

Neighborhood Transition Area

This area includes the upper watersheds of the *Town Spring Tributary, Upper Great Seneca Creek, Bennett Creek, and Little Bennett Creek* (see Proposed Land Use and Density map). It reflects a mixture of residential development near the Town Center and along Ridge and Woodfield Road, and open rural areas beyond. Topography and other sensitive environmental features in this area results in restricted access to existing public sewer and affords limited opportunity to significantly increase development potential without negative environmental consequences to the forested stream valleys in these headwater areas.

Other Properties in the Neighborhood Transition Area

The existing zoning is retained on all other properties in the Neighborhood Transition Area.

This particular area was zoned RE-2 in the 1993 Amendment to the Damascus Master Plan and this zoning was confirmed in the 2006 Approved and Adopted Damascus Master Plan. The proposed application would create two lots that are consistent with the zoning and larger-lot, residential use identified by the master plan. Therefore, the Board finds the Application substantially conforms to the Damascus 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 more than thirty new peak-hour trips within the weekday morning and evening peak periods. Therefore, the application is not subject to Local Area Transportation or Policy Area Mobility Reviews. Hawkins Creamery Road is a primary street, requiring seventy feet of right-of-way. Seventy feet of right-of-way currently exists, therefore, no additional dedication is required. Sidewalks

are required on primary streets except those in rural areas where this Property lies. No sidewalk currently exists on either side of Hawkins Creamery Road. Therefore, the Board finds the vehicular and pedestrian access for the subdivision will be safe and adequate with the existing public road and proposed private driveways.

Other Public Facilities and Services

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. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the Property. The Subject Property is not within a school moratorium area and is not subject to a School Facilities Payment.

- 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 proposed size, width, shape and orientation of the lots are appropriate for the location of the subdivision. The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The proposed lots meet the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of which have recommended approval of the Preliminary Plan. Therefore, the Planning Board finds that the size, shape, width, and area of the lots are appropriate for their location within the subdivision.

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

Environmental Guidelines

Environmental Planning staff approved the Natural Resource Inventory/Forest Stand Delineation for the site on November 21, 2008. The Property contains five large trees as discussed below, but does not contain any forest, wetlands, streams, 100-year floodplain, steep slopes, highly erodible soils, or environmental buffer areas. Therefore, the Preliminary Plan complies with the Montgomery County Environmental Guidelines.

Forest Conservation

The applicant submitted a preliminary forest conservation plan as part of the preliminary plan of subdivision. There is no existing forest on the property. Of the five large trees on the site, one is a specimen tree 36 inch in diameter at breast height (DBH) in good condition, with the remaining four trees between 24" and 30" DBH. Two of the trees are located within the right-of-way of Hawkins Creamery Road and the other three trees are located along the eastern property line. None of these trees is proposed to be removed or impacted by this plan. Therefore, a Forest Conservation Variance is not required for this application.

Since there is no forest on the subject site, the submitted preliminary forest conservation plan indicates the development has a 1.19-acre afforestation requirement. This planting requirement will be satisfied at an off-site location, the exact location to be identified by the applicant prior to record plat, and formalized prior to any grading of the site. Therefore, the Board finds that the Application satisfies the requirements of the Forest Conservation Law and the Environmental Guidelines.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on March 30, 2009. The stormwater management concept includes on-site water quality control and recharge via the use of nonstructural practices. Channel protection is not required because the one-year post-development peak discharge is less than two cubic feet per second.

- 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:

In the designated Neighborhood, lot frontage ranges from 31 feet to 554 feet. The proposed Lot 18 has 208 feet of frontage, and the proposed Lot 19 has 291 feet of frontage on Hawkins Creamery Road. Therefore, the proposed lots will be in character with existing lots in the Neighborhood with respect to frontage.

Alignment:

In terms of alignment, the road network is curvilinear and the lots in the Neighborhood are primarily perpendicular, with one radial lot. The proposed lots are perpendicular in alignment. The proposed lots are of the same character as existing lots with respect to the alignment criterion.

Size:

Lot sizes in the Neighborhood range from 2.0 acres to 5.57 acres. Seven of the existing lots in the Neighborhood range in size from 2.0 to 2.78 acres in size, while three of the existing lots in the Neighborhood are 3.27 acres to 5.57 acres in size. The proposed lots are 2.34 and 3.59 acres in size. The size of the proposed lots is in character with the existing lots in the neighborhood.

Shape:

With respect to shape, six existing lots in the Neighborhood are regular, three lots are irregular, and one lot is pie shaped. The proposed lots are regular like the majority of existing lots in the Neighborhood. The shape of the proposed lots will be in character with shapes of the existing lots in the neighborhood.

Width:

Lot widths in the Neighborhood range from 134 feet to 557 feet. Excluding the lot that is 557 feet wide, the remaining nine lots have widths of 134 feet to 278 feet. The proposed lots have lot widths of 217 feet and 271 feet. The proposed lots will be in character with existing lots in the neighborhood with respect to width.

Area:

When evaluating buildable area, existing lots in the Neighborhood range from 0.65 acres to 4.04 acres of buildable area. Excluding the lots that have 4.04 and 6.42 acres of buildable area, the remaining eight lots have buildable areas of 0.65 acres to 2.67 acres in size. The proposed lots will have a buildable area of 1.64 acres and 2.62 acres. The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area.

Suitability for Residential Use:

The existing and the proposed lots are zoned residential and the land is suitable for residential use.

The Planning Board finds that the project is in substantial conformance with all seven resubdivision criteria as identified in Section 50-29(b)(2) of the Montgomery County Subdivision Regulations.

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 Montgomery County Land Records 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, and that the date of this Resolution is SEP 29 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).

* * * * *

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 Vice Chair Wells-Harley, with Chairman Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board