



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

NOV 6 2012

MCPB No. 12-125
Preliminary Plan No. 12005101B
Gallery Park (Eastside)
Date of Hearing: October 25, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on November 27, 2006, the Planning Board issued its opinion approving Preliminary Plan No. 120051010, Gallery Park (Eastside)¹ creating 81 lots and 2 parcels for a maximum of 285 residential dwelling units, including 39 moderately priced dwelling units on 23.82 acres of land in the PD-11 zone, located 13000 Shawnee Lane, approximately 80 feet east of Gateway Center Drive ("Subject Property"), in the Clarksburg master plan ("Master Plan") area; and

WHEREAS, on December 2, 2010, the Planning Board issued its Resolution No. 10-138 amending the previous approval, approving Preliminary Plan No. 12005101A to create 70 lots for 70 fee-simple townhouse units and 29 parcels that would contain 186 condo-regime townhouse units, and several parcels for private roads and open space owned by the homeowners association on the Subject Property; and

WHEREAS, on August 8, 2012, Miller and Smith at Eastside, LLC ("Applicant"), filed an application for approval of a limited amendment to the previously approved preliminary plans to revise certain conditions of approval Preliminary Plan No. 12005101A related to the timing of building permits and the requirement for certain roadway improvements; and

WHEREAS, Applicant's application to amend the previously approved preliminary plans was designated Preliminary Plan No. 12005101B, Gallery Park (Eastside) ("Preliminary Plan," "Application" or "Amendment"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the

¹ At the time of approval, the project was known as Eastside.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Clarksburg, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

M-NCPPC Legal Department
www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

Planning Board, dated October 11, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 25, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12005101B, modifying Condition No. 5 and deleting Condition No. 6 of Preliminary Plan 12005101A as set forth in MCPB No. 10-138 as follows: ²

1. Condition No. 5 as revised shall now apply as follows:

The Applicant must dedicate and/or acquire 120 feet of right-of-way for Shawnee Lane from Gateway Center Drive to Frederick Road (MD 355), and construct Shawnee Lane to a four-lane divided arterial roadway. Any additional right-of-way or associated easement necessary for the construction of Shawnee Lane will be acquired or funded by the Applicant. The Applicant must acquire or fund the cost of condemnation by the Montgomery County Department of Transportation ("MCDOT") for all necessary right-of-way for the entire length of Shawnee Lane prior to issuance of the building permit for the 126th dwelling unit, excluding models. Construction of Shawnee Lane must be completed and open to traffic prior to issuance of the building permit for the 201st dwelling unit, excluding models.

2. Condition No. 6 is deleted in its entirety.

BE IT FURTHER RESOLVED, that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED, that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

² For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan as revised by previous amendments in any manner that would affect the Board's original findings, and therefore, and all findings not specifically addressed remain in effect.*

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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 in the Montgomery County Land Records, or a request for an extension must be filed; and

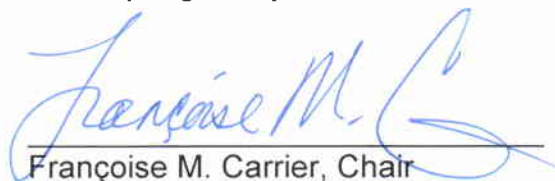
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is NOV 6 2012 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, October 25, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board