



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

FEB 15 2013

MCPB No. 13-13
Preliminary Plan No. 120090300
Boys Highlands
Date of Hearing: January 31, 2013

RESOLUTION

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

WHEREAS, on March 31, 2009, William P. Kamachaitis ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property to create three lots on 11.01 acres of land in the RE-2 zone, located on the north side of Barnesville Road (MD117), approximately 950 feet southeast of Slidell Road ("Subject Property"), in the Boys Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090300, Boys Highlands ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated January 18, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 31, 2013, 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 certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120090300 to create three lots on the Subject Property, subject to the following conditions:¹

¹ 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.

Approved as to
Legal Sufficiency: *David Lee / C* 1/23/13
M-NCPPC Legal Department
www.montgomeryplanningboard.org Phone: 301.495.4603 Fax: 301.495.1320
E-Mail: mcp-chair@mncppc-mc.org

- 1) This Preliminary Plan is limited to three lots for three (3) one-family residential dwelling units.
- 2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan approved as part of this Preliminary Plan, subject to:
 - a) The Applicant must obtain approval of a Final Forest Conservation Plan from the Planning Department prior to the issuance of a Sediment Control Permit from the Montgomery County Department of Permitting Services (MCDPS). The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
 - b) Prior to the start of clearing and grading, Applicant must enter into a two-year Maintenance and Management Agreement for any on-site planting required.
 - c) Prior to the start of clearing and grading, Applicant must obtain the M-NCPPC Office of General Counsel approval of a Certificate of Compliance agreement for any offsite forest planting required.
- 3) The Planning Board has accepted the recommendations of the Maryland State Highway Administration (MDSHA) in its letter dated May 11, 2009, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
- 5) The Planning Board has accepted the recommendations of the MCDPS Well & Septic Section, in its letter dated October 10, 2011, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the MCDPS Well and Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Planning Board has accepted the recommendation of the MCDPS Water Resources Section, in its letter dated February 23, 2009, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore,

the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the MCDPS Well and Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 7) Prior to recordation of a record plat, the Applicant must have the stormwater management concept recertified by MCDPS.
- 8) The record plat must reflect an ingress/egress and public utilities easement thirty feet in width along the shared driveway.
- 9) 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, building heights, on-site parking, site circulation and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 10) The record plat must show existing and proposed Category 1 conservation easements and other necessary easements.
- 11) 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 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:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Application substantially conforms to the 1985 Boyds Master Plan ("Master Plan"). The Master Plan does not specifically identify the Subject Property but does provide general recommendations for zoning and land use. The Master Plan recommends RE-2 zoning along Barnesville Road as suitable "to create a definable edge for the RE-2 Zone and to create a more logical zoning transition from Clarksburg to Boyds." Residential land use at this density is appropriate due

to the lack of public sewer in the general area. The Application complies with the recommendations adopted in the Boyds Master Plan in that it is for a residential land use on lots that conform to the RE-2 Zone.

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

Roads and Transportation Facilities

The proposed development will 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. The Application generates fewer than three new peak-hour trips and is not subject to Policy Area Mobility Review. Sidewalks are not required in this rural zone and the pedestrian activity generated by the lots will be able to use the shoulder of the frontage road. With the improvements to the driveway entrance, vehicular and pedestrian access is safe and adequate.

Other Public Facilities and Services

The MCDPS Well and Septic Section approved the on-site private wells and septic systems that will serve the three lots since public water and sewer is not extended to this area. Other public facilities and services, such as schools, police stations, firehouses and health clinics are currently operating within the standards set by the Subdivision Staging Policy in effect. The Property is within the Clarksburg High School cluster which is currently operating with no capacity limitations according to the FY13 Annual Schools Test. A School Facilities Payment is not required. All other public facilities and services are adequate to serve the lots.

- 3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

The Application meets all applicable sections of the Subdivision Regulations including the requirement that the size, shape, width and orientation of the lots are appropriate for the location of the subdivision. The Planning Board considered the development pattern of the area and the recommendations of the Master Plan and finds that the lots are appropriately configured with respect to surrounding development. Further, the location of the subdivision supports the intent of the Master Plan to use the properties along Barnesville Road as the edge of the RE-2 Zone and serve as a logical zoning transition from Clarksburg to Boyds.

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

The Board finds that as conditioned the Forest Conservation Plan complies with the requirements of Chapter 22A, the Forest Conservation Law. Development of the approved lots generates an afforestation requirement of 2.2 acres. The Applicant will meet this requirement by creating a 0.70 acre afforestation area and placing it in a Category 1 easement. The Applicant will meet the remaining 1.50 acres of required afforestation in an off-site forest bank.

5. *All storm water management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Sections 19-20 through 19-35.*

In a memo dated February 23, 2009, the MCDPS Water Resources Section determined that the stormwater management concept for the Property is acceptable. Given the date of the concept approval, MCDPS requires that the concept be recertified to assure development of the Property continues to meet applicable stormwater management standards. To prohibit premature development of the Property prior to the recertification, the approval of this Application is conditioned on the recertification of the stormwater concept by MCDPS prior to recordation of a record plat for the approved lots. The current approved stormwater concept consists of on-site water quality control and onsite recharge via drywells and rooftop and non-rooftop disconnect.

6. *The approved 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 in the Staff Report.*

Frontage:

Lot frontages in the Neighborhood range from 25 feet to 688 feet. The approved lots fall within this range. Lot 16 has 233 feet of frontage, Lot 17 has 25 feet of frontage and Lot 18 has 40 feet of frontage. Twelve of the 22 lots in the Neighborhood have 25 feet of frontage. The approved lots are of the same character as existing lots in the Neighborhood with respect to lot frontage.

Alignment:

Fifteen of the existing lots in the Neighborhood are perpendicular in alignment to the roadway; seven are angled with one of these lots being a corner lot. The existing lots within the Neighborhood have a wide variation in alignment characteristics. The approved lots are all aligned in a fairly perpendicular manner to the road and blend in well with the existing lots. The approved lots are of the same character as existing lots with respect to alignment.

Size:

The existing lots in the Neighborhood range from 2.1 acres to 12.2 acres with a fairly even distribution of lots sizes within the range. The approved lots range from 2.6 acres to 5.8 acres and are within the range for the lots in the Neighborhood. The approved lot sizes are in character with the sizes of existing lots in the Neighborhood.

Shape:

Twelve lots have pipestems of which two are standard flag shaped, and the remaining ten pipestem lots are irregularly shaped. Other lots in the Neighborhood are also irregularly shaped and four are characterized as rectangular in shape. Lot 16 is an irregularly shaped lot and Lots 17 and 18 are pipestem lots with an irregular shape. The shapes of the three approved lots are in character with shapes of the existing lots in the Neighborhood.

Width:

The width of the lots in the Neighborhood, as measured at the front building line, range from 150 feet to 496 feet. Lot 16, 17 and 18 have lot widths of 236 feet, 150 feet and 150 feet, respectively. The approved lots are in character with existing lots in the Neighborhood with respect to width.

Area:

In the Neighborhood of 22 lots, lot area ranges from 1.1 acres to 9.8 acres in buildable area within the building (zoning) setbacks. Lot 16 has a buildable area of 1.8 acres, Lot 17 has a buildable area of 3.3 acres and Lot 18 has a buildable area of 1.2 acres. The approved lots are of the same character as other lots in the Neighborhood with respect to buildable area.

Suitability for Residential Use:

The Property is zoned residential and there are no identified limitations with respect to the suitability of the Property for residential uses.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 61 months 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

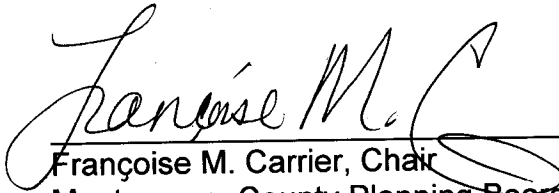
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is FEB 5 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, January 31, 2013 in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board