



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

MCPB No. 14-51
Preliminary Plan No. 12011017A
Kensington Heights
Date of Hearing: July 24, 2014

AUG 15 2014

RESOLUTION

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

WHEREAS, on March 26, 2013, the Planning Board, by Resolution MCPB No. 12-96, approved Preliminary Plan No. 120110170, creating 14 lots on 1.81 acres of land in the RT-8 zone, located on the north side of McComas Avenue approximately 60 feet east of the intersection of Melvin Grove Court and McComas Avenue ("Subject Property"), in the 2012 Wheaton CBD and Vicinity Sector Plan ("Sector Plan") area; and

WHEREAS, on May 14, 2014, *Kensington Heights 2, LLC* ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan(s) to modify condition 6 to replace the pedestrian connection to Wheaton Mall with an access easement on the Property;

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12011017A, Kensington Heights ("Preliminary Plan", "Amendment" 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 July 10, 2014, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 24, 2014, 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 Amendment No. 12011017A to replace the requirement for a pedestrian connection to Wheaton Mall with an access easement by modifying the

Approved as to
Legal Sufficiency:


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following condition as follows:¹

Condition 6

The Applicant must covenant to provide an 8-foot wide public access easement and to allow the construction of a future sidewalk connection to the Wheaton Mall property, as shown on the Preliminary Plan, if the Planning Board determines that such a sidewalk connection is necessary when the Wheaton Mall property redevelops. The covenant must be in a form approved by the Office of General Counsel, recorded in the Montgomery County Land Records, and referenced on the record plat.

BE IT FURTHER RESOLVED, that all other conditions of the preliminary plan 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:

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

This Amendment does not materially change the existing approval for uses and square footage. The Property is currently limited to a total of 11 townhouse lots and 3 single family dwelling lots in the RT-8 Zone. This Amendment makes no changes to these limitations.

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

The development of this site continues to be limited to the density and uses approved with the original approval. The prior finding of Adequate Public Facilities, including fire and rescue access, roads, water and sewer remains valid for the square footages approved.

3. *The size, shape, width and orientation of the proposed lots are appropriate for the location of the subdivision and for the uses contemplated.*

The lots are of the appropriate dimensions with respect to size, shape, width and orientation to accommodate the uses expected to occur on this Property. The

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.

Amendment remains in conformance with all applicable sections of the Subdivision Regulations.

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

The original approval by the Planning Board included provisions to satisfy the requirement of Chapter 22A as shown on the approved preliminary forest conservation plan. The Property continues to be bound by the conditions of the approved Forest Conservation Plan.

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 fact that the Montgomery County Department of Permitting Services approved a stormwater management concept for the entire site at the time of the original Preliminary Plan approval. This Amendment does not change the elements of that concept.


BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is AUG 15 2014 (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 Dreyfuss, 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, July 24, 2014, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board