



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

MAR 16 2015

MCPB No. 15-16
Preliminary Plan No. 120140160
Bradley Hills, 1st Addition to Section 2
Date of Hearing: February 12, 2015

RESOLUTION

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

WHEREAS, on March 19, 2014, Susan Nemazee ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 3 lots on 1.207 acres of land in the R-90 zone, located at the northeast quadrant of the intersection of Goldsboro Road and Radnor Road ("Subject Property"), in the Bethesda Policy Area, 1990 Bethesda-Chevy Chase Master Plan Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120140160, Bradley Hills 1st Addition to Section 2 ("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 30, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 12, 2015, 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. 120140160 to create 3 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.

- 1) Approval under this Preliminary Plan is limited to 3 lots for 3 one-family dwelling units.
 - 2) 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.
 - 3) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated September 16, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 4) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated May 12, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 5) Prior to final inspection, the Applicant must construct a 5 foot wide sidewalk along the Goldsboro Road site frontage.
 - 6) Prior to recordation of the plat, the Applicant must satisfy the provisions for access and improvements as required by MCDOT including the construction of a five (5) foot wide sidewalk along the property's frontage on Radnor Road, unless construction is waived by MCDPS.
 - 7) Vehicular access for Lot 32 will be from Radnor Road only.
 - 8) Prior to any clearing or grading within the project area, the Applicant must submit to M-NCPPC staff for approval of either a fee-in-lieu payment or certificate of compliance, which satisfies the 0.21 acre afforestation requirement.
 - 9) The Subject Property is within the Walt Whitman School Cluster area. The Applicant must make a school facility payment to MCDPS at the middle and high school levels at the single-family detached unit rate for the two
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(2) net new units for which a building permit is issued. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

- 10) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this 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 Master Plan does not specifically address the Subject Property but does recommend retention of the existing R-90 zoning. The subdivision complies with the recommendations adopted in the Plan as it proposes one-family residential development consistent with surrounding development patterns and the current zoning designation. The residential lots will be similar to surrounding lots with respect to dimensions, orientation, and shape. The subdivision will not alter the existing pattern of development or land use and is in substantial conformance with the Plan recommendation to maintain the existing land use.

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

Roads and Transportation Facilities

The site is located in the northeast quadrant of the intersection of Goldsboro and Radnor Roads. It is improved with a one-family detached dwelling unit with vehicular access from Radnor and Goldsboro Roads via two existing residential driveway aprons. Vehicular access for the approved lots houses will be from the two existing residential driveways, of which one is located on Goldsboro Road and other is located on Radnor Road. The other new residential driveway for proposed Lot 33 will be located on Radnor Road, approximately 65 feet north of the existing driveway on Radnor Road.

The 2005 Countywide Bikeways Functional Master Plan recommends bicycle lanes on Goldsboro Road between MacArthur Boulevard and Bradley Boulevard. Due to the limited site frontage, along Goldsboro Road, the Planning Board recommends that bicycle lanes are not implemented. If the bicycle lanes were implemented along the Subject Property's frontage, the resulting interim bicycle

facility would be discontinuous and potentially unsafe until the remainder of Goldsboro Road is improved to continue the bicycle lanes. The development will not preclude future installation of the bicycle lanes by others.

The Subject Property's will generate two (2) AM peak-hour trips and two (2) PM peak-hour vehicular trips. This subdivision is exempt from the Local Area Transportation Policy Review (LATR) and Transportation Policy Area Review (TPAR). The Planning Board concluded that the development satisfies the LATR and TPAR requirements of the Adequate Public Facilities review and will provide safe, adequate, and efficient site access.

Other Public Facilities and Services

The Subject Property will be served by public water and sewer systems. The Montgomery County Department of Fire and Rescue Services reviewed the Application and determined that the Subject Property has appropriate access for fire and rescue vehicles. The Subject Property is located in the Walt Whitman School cluster, which is operating over its program capacity at the middle and high school levels. A school facility payment is required for the two net new residential units approved as part of the Application. Other public facilities and services, such as police stations, firehouses, health services and utilities are available to serve the Subject Property.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Application was reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application meets all applicable sections including the requirements for resubdivision. The lots will meet the dimensional requirements for size, width, shape, and orientation and are appropriate for the location of the subdivision given the Master Plan recommendations for retention of the R-90 zoning, and development consistent with the one-family residential development patterns.

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

A. Forest Conservation

Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) # 420140320 was approved for the Subject Property site on October 28, 2013. The property contains numerous trees, many of which are

significant or specimen in size. There is no existing forest on-site, but the subdivision is subject to a forest conservation plan and an afforestation requirement of 0.21 acres. Given the relatively small size of the property, due to the lack of environmentally sensitive areas, such as stream valley buffers, and the modest afforestation requirement, the Applicant will satisfy the afforestation requirement by either a fee-in-lieu payment or the use of a forest conservation bank. Onsite mitigation of tree plantings for the removal of certain vegetation subject to a variance will be provided.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal of four Protected Trees and CRZ impacts to two trees, impacting a total of six trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The requested variance is based on achieving standard development allowed within the existing zoning and associated regulations. Therefore, the variance request would be granted to any Applicant in a similar situation.

2. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is based on achieving standard development allowed within the existing zoning and associated regulations.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the current application on the subject property and is not related to land or building use on a neighboring property.

4. *Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Stormwater Management Concept Plan for the development was approved by MCDPS Stormwater Management Section. The SWM concept meets required storm water management goals by the use of micro-bioretenion and non-rooftop disconnect on each lot, and two drywells. The retained trees and replanting of mitigation trees will also help water quality goals by providing shading and water retention and uptake. Therefore, the subdivision will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately 1" DBH for every 4" DBH removed and using trees that are a minimum of 3"DBH. No mitigation is required for Protected Trees impacted but retained.

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

The MCDPS Stormwater Management Section reviewed a stormwater management concept plan (#261695) and determined by letter dated September 16, 2014 that the Application met the stormwater management requirements contained in Chapter 19 of the Montgomery County Code.

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).*

The finding that the proposed lots are in character with the surrounding neighborhood is based on the neighborhood defined in the Staff Report. The defined neighborhood was assembled to provide an adequate sample of lots and development patterns in the surrounding area. The neighborhood includes platted lots in the R-90 zone and in the vicinity of MD 614, Radnor and Pembroke Roads, Pembroke Terrace, Bradley Boulevard and Goldsboro Court. As such, the neighborhood includes platted R-90 lots that one would pass on the way to or from the subject property. The neighborhood excludes certain nearby unplatted parcels and a property improved with a golf course.

Frontage: Within the delineated neighborhood, lot frontages range from 67 feet to 559 feet Lot 32 will have frontage of 101 feet, while Lots 33 and 34 have frontages of 94 feet and 104 feet, respectively. The approved lots will be of the same character as other lots in the neighborhood with respect to frontage.

Alignment: Of the 48 lots in the neighborhood, 34 lots are perpendicular and 14 are corner lots. Lots 33 and 34 are perpendicular while Lot 32 is a corner lot. The approved lots are of the same character as existing lots with respect to the alignment criteria

Size: Lot sizes in the delineated neighborhood range from 10,238 square feet to 135,907 square feet. Lots 32, 33, and 34 will be 16,272 square feet, 15,571 square feet and 20,068 square feet, respectively. The approved lot sizes are in character with the size of existing lots in the neighborhood.

Shape: The lots in the neighborhood consist of the following shapes: 41 lots are irregular and seven lots are rectangular. Lots, 32, 33, and 34 will be rectangular in shape. The three approved lots will be in character with shapes of the existing lots.

Width: Lots in the neighborhood range from approximately 90 feet to 565 feet in width. Lot 32 has a width of 111 feet, while Lots 33 and 34 have lot widths of 104 feet and 114 feet, respectively. The approved lots will be in character with existing lots in the neighborhood with respect to width.

Area: The buildable area for lots in the delineated neighborhood range from 2,684 square feet to 107,195 square feet. Lots 32 and 33 will fall within the 2,500 to 7,500 square foot range for buildable area which contains the largest number of existing lots (21) in the neighborhood. Lot 34 will have a buildable area of 10,627 square feet. The approved 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 approved lots are zoned residential. Currently, a one-family detached house is contained on the property and the land is suitable for residential use. The approved lots will be in character with the existing lots in the neighborhood with respect to suitability for residential uses.

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)), 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 MAR 16 2015 (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 Commissioner Fani-González, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Fani-González voting in favor, and Commissioners Dreyfuss and Presley absent, at its regular meeting held on Thursday, March 12, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board