



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUL 15 2015

MCPB No. 15-68
Preliminary Plan No. 120140230
Washington Grove Lane
Date of Hearing: June 25, 2015

RESOLUTION

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

WHEREAS, on June 4, 2014, Habitat for Humanity ("Applicant") filed an application for approval of a preliminary plan of subdivision that would create four lots for four single-family detached dwelling units for income qualified buyers on 1.25 acres of land in the R-90/TDR 5.0 Zone, located in the northwest quadrant of the intersection of Midcounty Highway and Washington Grove Lane ("Subject Property"), in the Gaithersburg Vicinity Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120140230, Washington Grove Lane ("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 June 12, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 25, 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 as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120140230 to create four 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:

[Signature] - 7/1/15

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- 1) This Preliminary Plan is limited to four lots for four single-family detached units for income qualified buyers. All four units must be sold or resold to households whose income level is at or below 60% of the area median income for the Washington Metropolitan Statistical Area for a period of at least thirty (30) years, or as otherwise provided in an agreement reached between the Applicant and Montgomery County to ensure the units serve as low or moderate income housing.
- 2) The Applicant must comply with the tree protection and tree save measures shown on the approved final forest conservation plan. Tree save measures may be modified by the M-NCPPC forest conservation inspector at the pre-construction meeting. Tree save measures not specified on the final forest conservation plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
- 3) Prior to any demolition, clearing, or grading on the Subject Property, the Applicant must record in the Land Records of Montgomery County a Certificate of Compliance Agreement approved by the M-NCPPC Office of General Counsel for use of a forest mitigation bank to satisfy the applicable forest conservation planting requirement, or pay an equivalent fee-in-lieu.
- 4) Prior to issuance of a building permit, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
- 5) After construction is complete, and prior to issuance of final residential occupancy permits, the Applicant must provide staff with a certification from an engineer specializing in acoustics confirming that the dwelling units were constructed in accord with the approved specifications for noise attenuation.
- 6) The Applicant must dedicate approximately 15 feet of right-of-way along the Subject Property's frontage on Washington Grove Lane for a total of 85 feet from the opposite right-of-way line. The Applicant must reflect the dedication on the record plat.
- 7) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by the Montgomery County Department of Transportation (MCDOT).
- 8) Prior to issuance of any Use and Occupancy Certificate, the Applicant must provide a 5-foot wide sidewalk along the Subject Property's Washington Grove Lane frontage, and extend this 5-foot wide sidewalk offsite

approximately 270 feet north to the bus stop located on the west side of Washington Grove Lane. This condition may also be satisfied by confirmation that MCDOT has accepted this segment of sidewalk construction as part of the Annual Sidewalk Program (CIP #506747).

- 9) The Planning Board accepts the recommendations of MCDOT in its letter dated February 26, 2015, and hereby incorporates them as conditions of the Preliminary Plan approval, except for recommendation No. 5, which is addressed independently in a separate condition of approval, and recommendation No. 8. Except for recommendation Nos. 5 and 8, 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 this Preliminary Plan approval.
- 10) The Planning Board accepts the recommendations of the Department of Permitting Services (DPS) stormwater management concept approval letter dated April 8, 2015, 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 DPS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 11) 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, 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 permits. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.
- 12) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 13) The Adequate Public Facility (APF) review for the Preliminary Plan Amendment will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
- 14) All necessary easements must be shown on the record plat.
- 15) Prior to record plat, Montgomery County must submit a written request to the Planning Board for the Board to conduct a mandatory referral review of the

conveyance of the Subject Property from the County to the Applicant, unless a determination is made that a mandatory referral review is unnecessary.

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 1990 Gaithersburg Vicinity Master Plan recommended the R-90/TDR 5.0 Zone and residential land use for the Subject Property. While there are no specific recommendations for the Subject Property that are applicable, the Master Plan contains a general recommendation regarding vehicular and pedestrian connectivity. The Preliminary Plan satisfies that recommendation by providing adequate vehicular and pedestrian access to the site, and by improving a sidewalk and providing offsite extension to a nearby bus stop along Washington Grove Lane. The lots are consistent with the zoning and residential use identified by the Master Plan.

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

Public Transit Service

The following four Ride On routes are available and provide adequate public transportation to serve the Subject Property:

1. Route 57 operates along Washington Grove Lane and connects between the Shady Grove Metrorail Station and the Lakeforest Mall Transit Center every 15 to 30 minutes on weekdays and weekends.
2. Route 60 operates on the northeast leg of Washington Grove Lane and the southeast leg of Midcounty Highway and connects between the Shady Grove Metrorail Station and the Montgomery Village Center every 30 minutes on weekdays only.
3. Route 64 operates on the northeast leg of Washington Grove Lane and the southeast leg of Midcounty Highway and connects between the Shady Grove Metrorail Station and the Montgomery Village Center every 15 to 30 minutes on weekdays and weekends.
4. Route 65 operates along Midcounty Highway and connects between the Shady Grove Metrorail Station and the Montgomery Village Center every 15 minutes on weekdays only.

Master-Planned Roadways and Bikeway

In accordance with the 1985 Gaithersburg Vicinity Master Plan, as amended, and the 2005 Countywide Bikeways Functional Master Plan, the master-planned roadways and bikeway are as follows:

1. Midcounty Highway is designated as a four-to-six-lane major highway, M-83, with a recommended 150-foot right-of-way and a bikeway, S-82. Similarly, the Countywide Bikeways Functional Master Plan recommends a shared use path, SP-70 along Midcounty Highway. The existing right-of-way is 150 feet wide along the property frontage, and an existing shared-use path is located on the opposite side of Midcounty Highway.
2. Washington Grove Lane is designated as a primary residential street with a recommended 70-foot right-of-way and no bikeway. The existing right-of-way is 70 feet wide along the Subject Property's frontage.

Pedestrian Facilities

Currently sidewalks do not exist along the Subject Property's frontages along Midcounty Highway or Washington Grove Lane. As part of this Preliminary Plan approval, the Board is not requiring the Applicant to construct a sidewalk along the Subject Property's frontage along Midcounty Highway. Such a sidewalk would typically be a required frontage improvement under Section 50-24(b) of the Subdivision Regulations. In this case, however, it is not necessary to serve the needs of the proposed development, as it would result in the only segment of sidewalk on the north side of the vast majority of Midcounty Highway—essentially a "sidewalk to nowhere."

As part of this Application, the Applicant will construct a sidewalk along the Subject Property's frontage on Washington Grove Lane. Additionally, under Section 50-35(n) of the Subdivision Regulations, the Applicant is required to provide an off-site extension of this 5-foot-wide sidewalk approximately 270 feet to the north of the Subject Property along Washington Grove Lane to the existing bus stop. This connection will provide a paved access to the bus stop served by Ride On routes 57, 60, and 64 operating along Washington Grove Lane. This offsite extension will provide a safe means of access for the Subject Property and surrounding community. It is a reasonable extension under the circumstances, not only because of its modest length and the clear need to provide safe pedestrian access to an existing transit facility, but also because the Board is not requiring the construction of a sidewalk along Midcounty Highway.

Local Area Transportation Review (LATR) Test

The residential development will generate four AM peak-hour trips within the peak-period (6:30 to 9:30 a.m.) and four PM peak-hour trips within the peak-period (4:00 to 7:00 p.m.). A traffic study is not required because the proposed land use generates fewer than 30 peak-hour trips within the weekday AM and PM peak periods; and thus the LATR test is satisfied.

Transportation Policy Area Review (TPAR) Test

A transportation impact tax payment is not required to satisfy the TPAR test because the Subdivision Staging Policy (i.e., page 15 of County Council's Resolution No. 17-1203) states that:

"All trips generated by any moderately priced dwelling units (MPDU) and any other low- and moderate-income housing which is exempt from paying a development impact tax must be also be exempt from any TPAR payment."

Since the proposed project is a qualified affordable housing project, it is exempt from paying a development tax, and it is also exempt from any TPAR payment. The TPAR test is satisfied.

Schools

The Subject Property is located in the Magruder Cluster, which currently requires a schools facility payment at the Elementary School Level. Since the proposed development is entirely MPDUs, the proposed development is exempt from the required payment.

Other Public Facilities and Services

The Subject Property will be served by public water and sewer systems. The Montgomery County Fire and Rescue Service reviewed the application and determined that the Subject Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient following the construction of the proposed homes. Electric, gas and telecommunications services are available and adequate.

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

The Preliminary Plan has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations in the Gaithersburg Vicinity Master Plan, and for the type of development or use contemplated. As conditioned, the approved lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Master Plan. The application has been reviewed by other applicable County agencies, all of whom have recommended approval of the Application.

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

Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) (No. 420140780) for the Subject Property was approved by Staff on February 3, 2014. The Subject Property contains no streams or their buffers, wetlands or their buffers, 100-year floodplains, or rare, threatened or endangered species.

The net tract area is 1.21 acres, which includes area for utility connections and driveway construction, less 0.5 acres of dedication for roads and improvements not being constructed as part of this development. There is 0.77 acres of existing forest which includes two trees between 24 and 27 inches diameter at breast height on the Subject Property. There is one 51 inch dbh red oak tree on the adjoining property. The Applicant will not impact this tree or its Critical Root Zone and therefore a tree variance is not required.

The Final Forest Conservation Plan shows the removal of all 0.77 acres of forest, which requires 0.62 acres of reforestation. Credit of 0.04 acres is being given for landscaping, leaving a remaining reforestation obligation of 0.58 acres. The Applicant will meet this requirement through offsite forest banking or through payment of a fee-in-lieu.

Noise

The Applicant is required to mitigate noise from Midcounty Highway for the proposed dwelling units. The Applicant is using the housing structures to shield outdoor use areas in the rear yards from excessive road noise. Additionally, the Applicant must provide Staff pre- and post-construction certification from an acoustical engineer that the dwelling units on the Subject Property attenuate projected interior noise levels to no more than 45 dBA Ldn.

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 issued a letter accepting the stormwater management concept for the Washington Grove Lane site on April 8, 2015. The stormwater management concept proposes to meet required stormwater management goals via Environmentally Sensitive Design through the use of drywells, micro-infiltration trenches, permeable pavement, and disconnection of runoff.

BE IT FURTHER RESOLVED, that the Planning Board also considered the conveyance of the Subject Property from Montgomery County to the Applicant in its

review of this Preliminary Plan. Although the Board did not receive a formal request from Montgomery County to conduct a mandatory referral review of the County's disposition of the Subject Property, in accordance with § 20-301 of the Land Use Article of the Maryland Code, the Board approves of the proposed conveyance of County property associated with this Preliminary Plan.

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 in the Montgomery County Land Records or a request for an extension must be filed; and

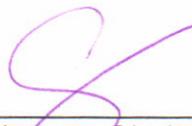
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 15 2015 (which is the date that this Resolution is mailed to all parties of record); and

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).

* * * * *

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, July 9, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board