



# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

APR 22 2016

MCPB No. 16-043  
Preliminary Plan No. 120160070  
Armstrong Property  
Date of Hearing: 4/7/2016

## RESOLUTION

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

WHEREAS, on October 28, 2015, Craig Kazanjan – Kaz Brothers (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create 55 lots on 8.17 acres of land in the CRT zone, located on the south side of Lewis Drive, approximately 500 feet west of the intersection with High Corner Street (“Subject Property”), in the Damascus Policy Area and 2006 Damascus Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120160070, Armstrong Property (“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 March 25, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on April 7, 2016, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, on motion of Commissioner Fani-Gonzalez, seconded by Commissioner Presley, the Planning Board to approve the Application, subject to certain conditions, by a vote of 5-0, Commissioners Anderson, Dreyfuss, Fani-Gonzalez, Presley, and Wells-Harley voting in favor;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120160070 to create 55 lots on the Subject Property, subject to the following conditions:<sup>1</sup>

<sup>1</sup> 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:

8787 Georgia Avenue, Suite 200, Spring, Maryland 20910

M-NCPPC Legal Department  
[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org)

Chairman’s Office: 301.495.4605 Fax: 301.495.1320

E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

- 1) This approval is limited to 55 lots for eight one-family detached and 47 one-family attached dwelling units, including a minimum of 12.5 percent MPDUs, a private road parcel, and open space parcels.
  - 2) The Applicant must submit a Final Forest Conservation Plan consistent with Chapter 22A at the time of Site Plan.
  - 3) Prior to demolition, clearing, or grading a Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed and the Liber Folio for the easement must be referenced on the record plat.
  - 4) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated February 8, 2016, 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.
  - 5) The Applicant must dedicate and show on the record plat 40 feet of dedication from the centerline of Lewis Drive along the Subject property's entire frontage.
  - 6) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated December 3, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
  - 7) Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
  - 8) The Applicant must construct all frontage improvements pursuant to the MCDOT letter.
  - 9) The Applicant must construct the private internal streets to applicable Montgomery County tertiary structural standards and must construct all sidewalks, both on and off the Subject property, to applicable ADA standards. Before the release of bond or surety, the Applicant must provide Department
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of Permitting Services, Zoning & Site Plan Enforcement Staff with certification from a licensed civil engineer that all streets and sidewalks have been built to the above standards.

- 10) The Applicant must construct an off-site, five-foot-wide sidewalk, located along the south side of Lewis Drive, between the eastern edge of the Subject property and the end of the existing sidewalk to the east.
- 11) All private streets must be recorded on their own parcel and shown on the record plat.
- 12) The record plat must reflect a common use and access easement over all private streets and adjacent parallel sidewalks.
- 13) The record plat must show an easement for a possible future inter-parcel connection between the Subject property and the property located to the east.
- 14) Record plat must show necessary easements.
- 15) The Adequate Public Facility ("APF") review for the preliminary plan will remain valid for 85 months from the date of mailing of the Planning Board resolution.
- 16) Final approval of the number and location of buildings, on-site parking, site circulation, sidewalks, and open spaces will be determined at site plan.
- 17) Prior to the submission of any plat, a Site Plan must be certified by M-NCPPC Staff.
- 18) 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 site plan approval. 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."*
- 19) The Subject property is within the Damascus High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the middle school level for all units for which a building permit is issued and a School Facilities Payment is applicable (eight single-family detached and 47 single-

family attached). The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

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 (as corrected and clarified at the hearing) and 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 Preliminary Plan Substantially conforms to the Master Plan. The Subject Property is located within the boundary of the 2006 Damascus Master Plan ("Master Plan"). The Master Plan establishes a vision of a small town surrounded by agricultural and rural open spaces. It proposes this by establishing a Town Center with a moderate intensity mix of uses, connected with residential neighborhoods and surrounded by rural space. The Master Plan promotes building livable neighborhoods with clustered development, and encourages a variety of housing options. The Subject Property is also within the Town Center area of the Master Plan and is identified as the Armstrong Tire Property in the Town Center figure located on page 14 of the Master Plan. Page three of the Master Plan identifies the purpose of the Town Center, including a desire to continue the commercial uses along Main Street and at major intersections to create opportunities for residential development that will support the retail and service businesses in the core. The Land Use Recommendation for the Subject property is for a mixed use development with a residential emphasis. The Master Plan also identifies an area of possible Legacy Open Space on the western portion of the Subject Property as a way of implementing the Master Plan goals of protecting forest resources, and protecting the hydrology of stream headwaters.

The Preliminary Plan approves an all residential neighborhood between the center of town and surrounding rural spaces, and is proposing a mix of housing types between one-family detached, townhome, and MPDU priced units. The Planning Board finds it appropriate to not include any commercial uses on this site because it is adjacent to existing commercial properties that have higher visibility and more pass-by traffic. Lewis Drive is a dead-end road and therefore has only local traffic, making commercial uses impractical. The Subject Property will also have a Category 1 Conservation Easement over the western 1/3 of the Subject Property, which closely aligns with the area designated as potential Legacy Open Space in the Master Plan.

The Master Plan continues on pages 15 – 22, and pages 63 – 69, with specific land use, building, and environmental recommendations that further refine and implement the Master Plan Vision. These recommendations are discussed in

great detail in the Staff Report and the Planning Board finds the Preliminary Plan adequately addresses these recommendations.

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

The Subject property is located on the south side of Lewis Drive, approximately 500 feet west of the intersection of High Corner Street. Lewis Drive is identified in the Master Plan as a Business District Street, with a total right-of-way of 80 feet, including a 38-footwide pavement width with two 11-foot wide travel lanes, and two, eight-foot wide parking lanes. The standard cross-section also requires a minimum five-foot wide sidewalk on both sides of the road. The existing Roadway is 38 feet wide, and the Applicant will stripe in 15 parallel parking spaces in the existing pavement across their Subject Property frontage, and install a five-foot wide sidewalk with room for street trees on their side of the street. Vehicle access to all 55 units will be from a single private street accessing Lewis Drive, and pedestrians will have access to a network of internal sidewalks that connect to the sidewalk that will be installed along Lewis Drive.

The uses in the Preliminary Plan generate a total of 21 new peak hour trips during the weekday morning peak period, and 37 new peak hour trips during the evening peak period, therefore the Local Area Transportation Review (LATR) is applicable. The submitted traffic study assesses the Critical Lane Volume (CLV) for three intersections in existing conditions, background conditions and future conditions. All three intersections CLVs are and will remain under the 1,400 CLV standard for the Damascus Policy Area, therefore the LATR is deemed adequate. The Subject Property is also within the Damascus Policy Area for the Transportation Area Policy Review (TPAR), which is considered adequate under both the roadway and the transit tests. Therefore, no payment to TPAR is required.

Certain aspects of the APF analysis and the LATR study supporting it were inaccurately described in the staff report and the traffic study prepared by the Applicant's consultant. However, testimony at the hearing made clear that the underlying analysis supporting the staff's conclusion that there is adequate road capacity to support the proposed development was accurate.

- 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, the Subdivision Regulations. The Application meets all applicable sections of the Subdivision Regulations. The lot sizes, widths, shapes and

orientations are appropriate for the location of the subdivision taking into account the zoning, the land use recommendations in the Master Plan, the townhouse building type contemplated for the Subject Property, and the Subject Properties unique and steep topography. The private streets will be located on their own parcels, and will be built to County structural standards.

The lots were reviewed for compliance with the dimensional requirements for the CRT zone as specified in the Zoning Ordinance. The lots meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

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 the Forest Conservation Law. The Applicant has submitted a Preliminary Forest Conservation Plan ("PFCP") for review as part of the Application. The subject property has a net tract area of 8.17 acres after deducting areas of road dedication and adding an area of off-site sidewalk improvements. There is approximately 4.88 acres of existing forest on the Subject Property and the Applicant proposes to remove 2.54 acres of forest and to retain 2.34 acres of forest. The Forest Conservation worksheet shows no planting requirements since the amount of retained forest is greater than the conservation threshold as outlined in Chapter 22A. All retained forest will be protected with a Category 1 Conservation Easement. There are no trees located on the Subject Property that are subject to a tree variance therefore no variance finding is required.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

The Preliminary Plan meets the Stormwater Management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval on February 8, 2016. The Application will meet stormwater management goals through the use of micro biofiltration, pervious pavement and drywells.

6. *Other findings.*

The Board acknowledges and appreciates the concerns of Damascus community members that the proposed development will negatively impact traffic congestion, pedestrian safety, and the character of their community. However, as detailed in the staff report and hearing presentation, the expressed concerns do not support denial of the proposed development. As detailed above, based on the applicable

APF standards, this project will not result in excessive congestion. The pedestrian safety concerns that the Board heard are beyond the scope of review for the proposed development. Finally, the proposed development has been designed with great sensitivity to the character of the adjacent community and consistent with the character envisioned for this site in the applicable Master 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)), 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 APR 22 2016 (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 Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, April 14, 2016, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board