



**MAR 30 2016**

MCPB No. 16-012  
 Preliminary Plan No. 120160030  
 Sandy Spring Townhomes  
 Date of Hearing: March 24, 2016

**RESOLUTION**

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

WHEREAS, on July 28, 2015 Tyler Nichols (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create 19 lots on 2.31 acres of land in the CRN 0.75, C-0.25, R-0.75, H-45 zone, located on the south side of Olney-Sandy Spring Road (“MD 108”) approximately 250 feet west of the intersection with Meetinghouse Road (“Subject Property”), in the Rural East Policy Area and Sandy Spring Rural Village Plan (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120160030, Sandy Spring Townhomes (“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 11, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on March 24, 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 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. 120160030 to create 19 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

*Christina Smith* 3/17/16  
 M-NCPPC Legal Department

- 1) This approval is limited to 19 lots for 19 one-family attached dwelling units, an open space parcel and an Outlot.
- 2) The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan No. 120160030, approved as part of this Preliminary Plan, including:
  - a. The limits of disturbance shown on the Final Forest Conservation Plan must be consistent with the limits of disturbance shown on the Sediment Control Plan.
  - b. The Applicant will be required to mitigate for the loss of non-forest specimen trees by planting 15, three-inch caliper native shade trees.
  - c. Prior to any on site land disturbance, the Applicant must record, in the Montgomery County Land Records, a Certificate of Compliance to use an off-site forest mitigation bank equal to 0.95 acres of credit.
  - d. Required Site inspections by M-NCPPC Staff per Section 22A.00.01.10 of the Forest Conservation Regulations must occur.
  - e. Tree save measures not specified on the Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
  - f. Mitigation for the loss of additional specimen trees may be required by the M-NCPPC forest conservation inspector if specimen trees do not survive the construction process.
- 3) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated 8/28/2015, 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.
- 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 04/03/2015, 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 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 forty (40) feet of dedication from the centerline of Olney Sandy Spring Road along the Subject Property's entire frontage.
- 6) All private streets must be recorded on their own parcel and shown on the record plat.

- 7) 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.”*
- 8) Prior to recordation of any plat, Site Plan No. 820160010 must be certified by M-NCPPC Staff.
- 9) Record plat must show necessary easements.
- 10) The record plat must reflect the following:
  - a. A common use and access easement over all private streets and adjacent parallel sidewalks as shown on the Preliminary Plan.
  - b. An ingress/egress easement over the portion of the private street shared with the commercial properties located to the east.
  - c. The existing sidewalk easement located along MD 108.
- 11) Final approval of the number and location of buildings, on-site parking, site circulation, sidewalks, and open spaces will be determined at site plan.
- 12) 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.
- 13) The Applicant must construct the private internal street(s) to applicable Montgomery County tertiary structural standards 2001.01: Tertiary Residential Street Modified, from the MCDOT Road Code, to the design as shown on the Preliminary Plan, 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 MCDPS, Zoning & Site Plan Enforcement Staff with certification from a licensed civil engineer that all streets and sidewalks have been built to the above standards.

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 Preliminary Plan substantially conforms with the recommendations of the Master Plan. The purpose of the Master Plan is to enhance the rural village character of Sandy Spring “by enhancing the existing gateway and reinforcing the distinctions between the rural village and adjacent residential neighborhoods.” The Subject Property is located in the Village Core Neighborhood of the Master Plan, and is considered part of the western gateway of Sandy Spring. The Master Plan provides numerous recommendations including specifics for Planning and Land use, Buildings, Environment, and Transportation.

*Planning, Land Use and Buildings*

The Master Plan provides both Village Core Wide, and Subject Property specific recommendations. The combination of these recommendations include providing a mix of residential and commercial uses, providing open spaces for gathering, reinforcing the edge of the Master Plan area with medium density residential uses at up to 0.75 FAR, providing opportunities for shared parking, and encouraging various housing opportunities. The Master Plan also encourages buildings between 1 and 3 stories tall, with articulated elevations and active fronts. The Preliminary Plan meets these recommendations with a residential townhouse community of 19 one-family attached dwelling units and an FAR of 0.63, providing common open space at the edge of the Village Core along MD 108 that is accessible to the public, and aligning the lots closest to MD 108 as six lots divided between two townhouse rows which activates the street and varies the building massing. The Preliminary Plan also provides an area of shared parking on the eastern portion of the Site intended primarily for the adjacent commercial use located to the east.

*Transportation and Environment*

The Transportation section of the Master Plan reinforces the previous 1998 Master Plan for Sandy Spring-Ashton and recommends the classification of Olney-Sandy Spring Road as an Arterial Roadway that is 80 feet wide with one travel lane in each direction and a 10-foot wide shared use path on the north side of the road. The Preliminary Plan proposes dedication of approximately 5,515 square feet along Olney-Sandy Spring Road to establish the right-of-way at 40 feet from centerline and retains the existing sidewalk along the south side of the road. The environmental recommendations in the Master Plan focus on water quality protection for the Patuxent River Watershed and promote protecting and improving on tree canopy cover, limiting imperviousness and providing tree plantings. The Subject Property is not in the Patuxent Watershed, but provides ample spaces to

do extensive plantings around the private streets, parking areas and open spaces that create a tree canopy and meets all stormwater requirements.

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

The public facilities provided by the Preliminary Plan are adequate to support and service the Subject Property.

#### *Transportation*

The Subject Property will have two access points for vehicles; one is a direct access to MD 108 which will be shared with the Sandy Spring Bank building to the east. The second is through inter-parcel access through commercial properties to Meeting House Road. Both access points will provide for full movements for vehicles. The existing access to MD 108 will be widened slightly to meet current MDSHA standards as shown on the Preliminary Plan, but will not require a new access permit from MDSHA. There is an existing five-foot wide sidewalk across the Property frontage that was construed by MDSHA which will remain in its current location with this Application. The Preliminary Plan provides the necessary dedication for MD 108 to achieve the 40 feet from centerline as required by the Master Plan. Two lead in sidewalks are shown entering the Site from MD 108, and a pedestrian can follow the sidewalks through the Site to an inter-parcel connection being provided to the Sandy Spring Village community to the south and west.

#### *All Other Public Facilities*

Other public facilities and services are available and will be adequate to serve the Preliminary Plan. The Subject Property received a water and sewer category change on October 23, 2015 by change request 15-CLO-02A and the Preliminary Plan proposes that all dwellings will be served by public water and sewer. Other telecommunications and utility companies reviewed the Preliminary Plan and found that the Site can be adequately served. The Preliminary Plan has also been reviewed by the Montgomery County Fire and Rescue Services who have determined that the Application provides adequate access for fire and emergency vehicles. Other public services such as police and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. The Subject Property is within the Sherwood school cluster which is not currently subject to moratorium or a School Facilities Payment.

- 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 Preliminary Plan meets all applicable sections of the Subdivision Regulations. Although a portion of the Subject Property is already a recorded lot

on Record Plat No. 12224, accepted Planning Board policy only applies the resubdivision analysis of 50-29(b)(2) to properties in a residential zone, and the Subject Property zone is a mixed use CRN zone. The proposed lot sizes, widths, shapes and orientations for the townhouse units are appropriate for the location of the subdivision taking into account the design recommendations included in the Master Plan, and for the townhouse building type contemplated for the Subject Property. The outlot proposed is necessary to provide parking for an off-site user, and the private street parcel is adequately sized to accommodate the private street and sidewalks.

The lots were reviewed for compliance with the dimensional requirements for the CRN zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. Final lot layout and size will be determined at Site Plan

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

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. There is 0.75 acres of existing forest on the Subject Property which will be cleared. The Forest Conservation Worksheet generates a 0.95-acre forest mitigation requirement, which will be met through the purchase of credits in an off-site forest mitigation bank.

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 or CRZ impact to 12 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance. The Subject Property is only 2.3 acres in size, and is recommended for townhouse development and the provision of a community open space area by the Master Plan. The small size of the property and the number of

Protected Trees located on the Subject Property make development impractical without impacting some Protected Trees.

The Board makes 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.*

Granting of the variance is not unique to this Applicant. This type and intensity of development is typical for the CRN zone and the variance will not confer on the Applicant a special privilege that would be denied to other applicants

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

The variance is not based on conditions or circumstances which are the result of the action by the Applicant, but rather on the Site conditions, the zone for this area, and the stormwater management requirement. There are no practical options to reconfigure these Applications to avoid impact to the Protected Trees.

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 not the result of the land or building use on the adjacent properties. All protected trees will be impacted by the land disturbing activities required for the development of this Site, regardless of neighboring uses.

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

No sensitive riparian areas will be disturbed as part of this Preliminary Plan and mitigation will be provided for the removal of the Protect Trees not part of existing forest. A stormwater management concept has also been approved for the Subject Property. Therefore, the variance will not violate State water quality standards.

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 caliper inch for every 4 caliper inches removed. With the removal of 170 caliper inches of Protected

Trees, the Applicant will mitigate with 43 caliper inches of new trees, to be planted with trees at a minimum of 3 caliper inches in size at the time of planting. No mitigation is required for Protected Trees impacted but retained.

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 Montgomery County Department of Permitting Services, Water Resources section approved a stormwater concept plan for the Preliminary Plan. The Preliminary Plan will meet stormwater management goals set forth in Chapter 19 through the use of micro-biofiltration facilities and a bioswale.

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

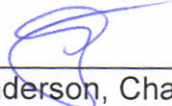
BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 30 2016 (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Presley and Fani-González voting in favor, and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, March 24, 2016, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board