



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

MCPB No. 16-056
Preliminary Plan No. 120140070
Williamsburg Village
Date of Hearing: June 23, 2016

JUL 08 2016

RESOLUTION

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

WHEREAS, on November 14, 2013, Larry Hinman ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 1.59 acres of land in the R-200 zone, located at the southwest corner of Princess Anne Drive and Queen Mary Drive, approximately 800 feet west of Georgia Avenue ("Subject Property"), in the Olney Policy Area and Olney Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120140070, Williamsburg Village ("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 10, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 23, 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. 120140070 to create two 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:

8787 Georgia Avenue, Suite 200, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

1. This Preliminary Plan is limited to two lots for one dwelling unit on each.
2. The Applicant must comply with the following conditions of approval for Preliminary Forest Conservation Plan ("FCP") No. 120140070, approved as part of this Preliminary Plan:
 - a. A Final Forest Conservation Plan (FFCP) must be approved by M-NCPPC Staff prior to recordation of the plat and address the following conditions:
 - i. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
 - ii. Mitigation for removal of two trees, Tree #1 (38" DBH Norway maple) and Tree #2 (35" DBH Norway maple), previously authorized for utility work must be provided in the form of planting native canopy trees totaling nineteen caliper inches, with a minimum tree size of three inches DBH. The locations of the trees must be identified on the Final FCP, outside of any rights-of-way, or utility easements, including stormwater management easements. Adjustments to the planting locations of these trees may be required by the M-NCPPC forest conservation inspector to protect the root zones of existing trees.
 - iii. The Applicant must plant at least 19 caliper inches of native canopy trees on the Subject Property prior to the M-NCPPC forest conservation inspector's final inspection of tree protection measures.
 - iv. Tree protection measures must be shown on the plan for existing trees to remain. The Applicant must comply with all tree protection and tree save measures shown on the approved Final FCP. Tree save measures not specified on the approved Final FCP may be required by the M-NCPPC forest conservation inspector.
 - b. Prior to any land disturbing activities, the Applicant must obtain Staff approval of a Certificate of Compliance Agreement to provide for 0.26 acres of offsite forest planting requirement.
 - c. The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the FFCP as approved by M-NCPPC Staff.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated April 28, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.

5. 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 January 7, 2014, and hereby incorporates them as conditions of 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.
6. Prior to issuance of final use and occupancy permit, the Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By _____" are excluded from this condition.
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 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.

8. The record plat must show necessary easements.
9. 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.

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 Application substantially conforms to the recommendations of the 2005 Olney Master Plan. The Subject Property is located just outside of the Southern boundary of the Town Center portion of the Olney Master Plan, and was not

given specific recommendations on land uses in the Master Plan. The Master Plan has overall goals that pertain to the Subject Property including reinforcing Olney as a satellite community in the residential and agricultural wedges of the General Plan. The Master Plan retained the R-200 Zoning for the Subject Property, and single-family residential detached units are a permitted use within that Zone.

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

Roads and Transportation Facilities

The Subject Property is located at the western corner of the Princess Anne Drive/Queen Mary Drive intersection in Olney and is currently improved with one single family detached dwelling unit, which has vehicular access from Princess Anne Drive via an existing residential driveway apron. As approved by the Planning Board, vehicular access to serve lot 10 will be via a new 12' wide driveway on Queen Mary Drive, approximately 100 feet west of the intersection.

The existing asphalt sidewalk along the frontage of Princess Anne Drive will be removed and a new 5-foot-wide concrete sidewalk will be constructed along the Subject Property's entire frontage on Queen Mary Drive and Princess Anne Drive, as specified in MCDOT letter dated April 28, 2016. The new sidewalks will tie into an existing concrete ADA compatible ramp at the intersection of two roads. An existing painted pedestrian crossing will provide a safe area for residents to cross Queen Mary Drive and access the adjacent elementary school.

Master Plan Transportation Facilities

The 2005 Approved and Adopted Olney Master Plan

- Queen Mary Drive is currently improved within a 60-foot wide right-of-way with 20 feet of pavement along the frontage of the Subject Property and transitions to a 70-foot wide right-of-way between Princess Anne Drive and Georgia Avenue (MD97).
- Princess Anne Drive is currently improved within a 70-foot wide right-of-way with 20 feet of pavement along the frontage of the Subject Property and transitions to a 60-foot wide right-of-way between Colonial Court and King William Drive.

The Master Plan designated a shared roadway bike path (B-34) for bicycles on Queen Mary Drive from Georgia Ave to Lafayette Drive. No additional right-of-way dedication is necessary for potential future widening of Queen Mary Drive and Princess Anne Drive. The necessary right-of-way for both roads was previously dedicated.

Local Area Transportation Review (LATR) & Transportation Policy Area Review (TPAR)

The estimated traffic impact of one new single family dwelling unit, exclusive of the existing single family dwelling unit that will remain on the Subject Property, is one AM peak-hour trips and one PM peak-hour vehicular trips. As a result of this *de minimis* impact, this project is exempt from the Local Area Transportation Policy Review (LATR) and Transportation Policy Area Review (TPAR). The Preliminary Plan satisfies Adequate Public Facilities (APF) requirements and does not necessitate further traffic analysis. In consideration of the *de minimis* traffic impact and proposed public improvements, the vehicle and pedestrian access will be safe and adequate to serve the subdivision.

The Preliminary Plan has been evaluated by Staff and the Montgomery County Department of Transportation, which support the transportation elements of the Preliminary Plan. The access to the Subject Property and the individual lots, as shown on the Preliminary Plan, is adequate to serve the traffic generated by the development.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the existing and new dwelling units. The existing house on Lot 9 is currently connected to an existing eight-inch waterline that runs along the Subject Property's frontage on Princess Anne Drive. The house connects to an existing eight-inch sewer line that runs along the centerline of Queen Mary Drive. The existing sewer house connection crosses the eastern corner of proposed Lot 10. The Preliminary Plan includes a new 20-foot wide easement (to benefit lot 9) over the existing section of sewer. Lot 10 will connect to the existing eight-inch water line and eight-inch sewer line within Queen Mary Drive. The Applicant is also proposing a 10-foot wide easement on the western property line of lot 9 to provide a future gas connection to lot 10.

The Application has been reviewed by the Montgomery County Department of Fire and Rescue Service, which determined that the Subject Property has adequate access for fire and rescue vehicles by transmittal dated November 6, 2013.

The Subject Property is within the Sherwood High School cluster. According to the 2012-2016 Subdivision Staging Policy, the schools in the Sherwood Cluster are adequate to serve the proposed dwellings. The Application is not subject to a School Facilities Payment. Electric and telecommunications services as available and adequate to serve the proposed lots. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the 2012-2016 Subdivision Staging Policy Resolution currently in effect.

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.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations and meets all applicable sections, including the requirements for resubdivision as discussed below. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations included in the Olney Master Plan, and for development of single-family detached homes. The Application creates two lots, Lot 9, which will be 23,721 square feet and Lot 10, which will be 45,710 square feet. As proposed, Lot 10 is larger because the Applicant wishes to keep the existing circular asphalt driveway which is original to the house. The corner orientation and buildable area of proposed Lot 9 with its access to Queen Mary Drive provides sufficient space to build a new home fronting on Queen Mary Drive. The lots were reviewed for compliance with the dimensional requirements for the R-200 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in the R-200 zone as described above and shown on the Preliminary Plan. The Application has been reviewed by other applicable county agencies, all of which have recommended approval of the plan.

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

A. Forest Conservation

The Planning Board finds that as conditioned, the Forest Conservation Plan associated with the Preliminary Plan complies with the requirements of the Forest Conservation Law.

The Application includes a tract area of 1.74 acres of land, which includes 0.15 acres of off-site improvements for the construction of a five-foot wide concrete sidewalk to replace the existing four-foot wide asphalt sidewalk along Princess Anne Drive, the construction of a five-foot wide sidewalk along Queen Mary Drive, and the construction of a new driveway for proposed Lot 10. Development on the Subject Property generates a requirement to provide 0.26 acres of afforestation. The Applicant will satisfy the planting requirement at an offsite location.

Two specimen trees identified on the approved NRI/FSD and noted on the FCP as Tree #1 (38" DBH Norway maple – poor condition) and Tree #2 (35" DBH Norway maple – fair condition) and three significant trees identified as Tree #102 (28" DBH Norway maple – fair condition), Tree #103 (26" DBH Norway maple – poor condition), and Tree #104 (25" DBH Norway maple – poor condition) were removed by PEPCO on February 10, 2016 with the permission of a M-NCPPC forest conservation inspector in a letter dated October 16, 2015. PEPCO had requested permission to remove these five trees located within the public utility easement along Princess Anne Drive to provide access for future utility work. As directed by the forest conservation inspector, mitigation for the removal of the two specimen trees will be provided on the Subject Property in the form of planting native, canopy tree species totaling nineteen caliper inches.

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 CRZ impact to one Protected Tree 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 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 the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Tree is due to the reasonable development of the Subject Property. The Protected Tree is located within the remaining developable area of the site, which is dictated to a great extent by the location of the existing house to remain and the requirements of the zone. Granting a variance request to allow land disturbance within the developable portion of a property is not unique to this Applicant. Granting of this variance is not a special privilege that would be denied to other applicants.

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

The need for the variance is not based on conditions or circumstances that are the result of actions by the Applicant. The requested variance is based upon existing site conditions, including the existing house to remain, the requirements of the zone, and the number and locations of 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 need for a variance is a result of the existing conditions and the proposed site design and layout on the Subject Property, and not a result of 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 variance will not violate State water quality standards or cause measurable degradation in water quality. No trees located within a stream buffer, wetland or Special Protection Area will be impacted or removed as part of this Application. The Protected Tree will not be removed due to the development, so the water quality functions currently provided by the tree will remain. Additionally, the planting of 19 caliper inches of new trees on the Subject Property will also help the uptake of stormwater.

No mitigation is recommended for 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 MCDPS Stormwater Management Section approved the stormwater management concept for the project on January 7, 2014. The approved concept proposes to meet the required stormwater management goals via drywells and a micro infiltration trench.

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 Subject Property includes a recorded lot (Lot 8) and part of three abutting lots, Lot 2, Lot 3, and Lot 4. Because the lots are shown on a previously recorded record plat, this Application requires compliance with Section 50-29(b)(2) of the Subdivision Regulations as a resubdivision.

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations.

In administering of the Subdivision Regulations, the Planning Board must determine the appropriate "neighborhood" for evaluating the application. The Board concurs with the neighborhood delineation in the Staff Report.

In performing the subdivision analysis, the Section 50-29(b)(2) resubdivision criteria were applied to the Neighborhood. The approved lots are of the same character with respect to the resubdivision criteria as other lots within the Neighborhood. Therefore, as described below, the proposed resubdivision complies with the criteria of Section 50-29(b)(2).

Frontage:

The approved lots will be of the same character as existing lots in the neighborhood with respect to lot frontage. The proposed lots have frontage of 200 feet and 221 feet. In the Neighborhood, existing lots range from 58 feet (Lot 12C- Block 1 & 17C- Block 3) to the widest at 276 feet (Lot 7 – Block 2). Therefore, the approved lots are in the range and are of similar character regarding frontage.

Alignment:

The approved lots are of the same character as existing lots in the neighborhood with respect to the alignment criterion. One of the proposed lots is a corner, and the other is perpendicular to the street as are most of the lots in the Neighborhood.

Size (Lot):

The approved lot size is in character with the size of existing lots in the neighborhood. The range of lot sizes in the Neighborhood is between 18,932 square feet and 46,019 square feet. The smaller of the approved lots, Lot 10 is 23,721 square feet and Lot 9 is 45,710 square feet, both of which fall within the range of lot sizes within the Neighborhood.

Shape:

The shapes of the approved lots will be in character with shapes of the existing lots in the neighborhood. Proposed Lot 10 is irregular and proposed lot 9 is generally rectangular. The Neighborhood contains a mix of lot shapes including irregular polygons, irregular rectangles, and rectangles.

Width (at BRL):

The approved lots will be in character with existing lots in the neighborhood with respect to width. The range of width at the building restriction line within the Neighborhood is between 70 and 263 feet. The approved lots will have widths of 210 and 230 feet, which fall within the range of lot widths within the Neighborhood.

Area (Buildable):

The approved lots will be of the same character as existing lots in the neighborhood with respect to buildable area. The approved lots have buildable areas of 8,176 and 21,757 square feet, falling within the range of buildable areas for lots in the Neighborhood, which range between 5,559 square feet and 22,511 square feet.

Suitability for Residential Use: The approved lots and the rest of the lots in the Neighborhood are zoned R-200 and are suitable for residential use.

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 JUL 08 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 Dreyfuss, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, June 23, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board

