



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

MCPB
ITEM #
9/4/08

DATE: August 24, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RAK*
Catherine Conlon, Subdivision Supervisor *CAE*
Development Review Division

FROM: Richard Weaver, Planner Coordinator (301) 495-4544 *RAW*
Development Review Division

SUBJECT: Request for an extension to the validity period – Preliminary Plan No.
120030030– Ancient Oak West

Recommendation: Extend validity period to September 20, 2008

Discussion:

The subject preliminary plan was approved by the Planning Board on May 6, 2004 for one, one-family residential lot located on the east side of Chestnut Oak Drive, approximately 475 feet south of Wye Oak Drive. The Resolution reflecting the Planning Board's action was mailed on May 20, 2004. Pursuant to the conditions of approval, the preliminary plan remained valid for 37 months from the date of the mailing (June 20, 2007) unless, prior to that date, the applicant either recorded by plat all land shown on the approved plans or submitted a request to extend the validity period.

On July 26, 2007 the Planning Board considered a six month extension of the validity period from June 20, 2007 to December 20, 2007. That extension was granted by the Planning Board. On January 4, 2008, the Planning Board considered a second request for extension from December 20, 2007 until June 20, 2008. That extension was granted by the Planning Board. To this date the record plats have not been recorded.

Please find attached to this staff memo, the applicant's timely request for a third extension of the validity period. Pursuant to Section 50-35 (h)(3)(d) of the Subdivision Regulations, "the Planning Board may only grant a request to extend the validity period of a preliminary plan if the Board is persuaded that:

- i. delays, subsequent to the plan approval by the government or some other party, essential to the applicant's ability to perform terms or conditions of the plan approval, have materially prevented applicant from validating the plan, provided such delays are not created by the applicant; or
- ii. the occurrence of significant, unusual, and unanticipated events, beyond applicant's control and not facilitated or created by applicant, have substantially impaired applicant's ability to validate its plan and that exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by applicant to implement the terms and conditions of the plan approval in order to validate its plan) would result to applicant if the plan were not extended."

Applicant's Position

The applicant's letter suggests that processing delays caused by staff turnover have contributed to the inability to get plats recorded in a timely manner. The letter also cites a requirement that County driveway permit applications, fees and bonds be posted prior to recordation of plats. Changes to the architecture of the house required changes to the stormwater management concept and erosion control plans. Finally, a comment in the "Well and Septic" file had required a change to the approved septic disposal area which must be shown correctly on the plat. The applicant apologizes for the need for this request but believes that everything is in order and that the plat could now be recorded only for this extension of the validity period.

Staff Position

Staff is compelled by the applicant's argument that the requirement for driveway permit applications, fees and bonds be posted with the County prior to recordation of the plat likely played some role in delaying final preparation of the plat for signatures. This requirement is fairly new and still under development by County staff. This would be considered a governmental delay.

At this time, both the Chairman of the Planning Board and the Director of Permitting Services have signed the plat. With the cooperation of the applicant's engineer, staff believes the plat can be sent to the recordation office immediately after these proceedings but suggests an extension until September 19, 2008, equivalent to an additional three months from the current expiration date, to allow a small buffer.

Attachment:

Extension request letter dated June 17, 2008.

Robert L. Earp
7820-C Airpark Rd.
Gaithersburg, Maryland 20874
June 17, 2008

Montgomery County Department of Park & Planning
The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Preliminary Plan 1-03003
120030030
Lot 37, Block C, Ancient Oak West

Dear Sirs;

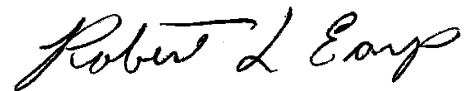
All required submittals have been made for the above captioned record plat (I confirmed this with Steve Smith), however, I have been informed that a further extension of time, beyond the June 20, 2008, is needed so that all approval signatures can be obtained from all the necessary departments. Please accept this letter as an application for that extension. Staff has suggested an extension of 4 months to allow enough time for the documents to circulate through the appropriate departments.

Processing has entailed the re-examination of past issues by new personnel. Permitting services required a driveway permit application, fee, and bond be posted prior to record plat approval. This entailed a field inspection by Montgomery County. All of this has been done. Architectural plans, not available at Preliminary Plan approval, caused the existing approved storm water, erosion control concept plan to become unfeasible. A new acceptable storm water, erosion control concept has been formulated. A comment in the "Well and Septic" file triggered a revision to the already passable septic field plan. This comment was never transmitted to me. All the issues relating to this property have been resolved either by approval or revision and are reflected on the proposed record plat.

I am very sorry that everything could not be accomplished within the allotted time. I am very anxious to proceed with the construction of the home.

Thank you for all your time and consideration.

Sincerely,



Robert L. Earp