



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

MCPB
Item #
1/7/10



MEMORANDUM

DATE: December 14, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: Erin Grayson, Senior Planner (301-495-4598) *EG*
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision (Resubdivision)

APPLYING FOR: 7 lots for 7 one-family detached dwelling units

PROJECT NAME: Hermitage
CASE #: 120080270
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: R-60
LOCATION: At the termination of Wexford Drive and Brandwine Street, on the west side of Connecticut Avenue
MASTER PLAN: Kensington-Wheaton

APPLICANT: Robert Conner, LLC
ENGINEER: CAS Engineering

FILING DATE: April 2, 2008
HEARING DATE: January 7, 2010

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 7 lots for 7 one-family detached residential dwelling units.
- 2) The applicant must comply with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 3) The record plat must reflect a Category I easement over all areas of stream valley buffers and forest conservation.
- 4) The applicant must dedicate and the record plat must show dedication for the extension of Brandywine Street within the property as a 50 foot-wide right-of-way ending in a 110 foot diameter cul-de-sac as shown on the preliminary plan.
- 5) The Applicant must mitigate one trip and satisfy the Policy Area Mobility Review (PAMR) requirements of the Adequate Public Facilities test with a payment of \$11,000 to Montgomery County Department of Transportation (MCDOT) prior to the release of any building permit for this application.
- 6) The Applicant must construct an 8 foot-wide shared use path from Wexford Drive to the proposed Brandywine Street cul-de-sac built to County standards as shown on the preliminary plan. The record plat must reflect a public use and access easement over this path.
- 7) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 8) The applicant must comply with the conditions of the MCDPS stormwater management approval dated August 13, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 9) The applicant must comply with the conditions of the MCDOT letter dated May 13, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 10) The applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated May 8, 2008. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 11) The applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 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) Other necessary easements must be shown on the record plat.

SITE DESCRIPTION

The site of the Hermitage preliminary plan application (“Property”) or (“Subject Property”) is located in the northern portion of the Kensington-Wheaton master plan area, at the termination of Wexford Drive and Brandywine Street, on the west side of Connecticut Avenue. The Property consists of a 2.46 acre recorded parcel in the R-60 zone and is the former site of a private swim club. A swimming pool, parking lot and driveway from Wexford Drive are currently located on the Property. Developed, R-60 zoned lots surround the Property to the north, south, west and east across Connecticut Avenue.

The Property is located within the Lower Main Rock Creek watershed. The site is not in a Special Protection Area. The property includes 0.99 acres of forest in two different stands – 0.53 acres of high priority forest and 0.47 acres of low priority forest. The forest stand designated high priority for retention is classified as such due to the presence of steep slopes and stream valley buffer. The stream valley buffer is associated with an un-named tributary to Rock Creek that runs east-west through the unbuilt right-of-way for Wexford Drive south of the Subject Property. There are a total of 0.87 acres of environmental buffer on the Property. There are numerous significant and specimen size trees on the property, primarily in the forest stands.



Figure 1: Vicinity Map

PROJECT DESCRIPTION

The Applicant proposes to extend Brandywine Street and terminate the road in a cul-de-sac that will serve 7 one-family detached dwelling units on 7 lots ranging in size from 6,008 square feet to 7,573 square feet. The 7 homes will be served by private driveways extending from Brandywine Street. There will be no vehicular access to Wexford Drive, but an asphalt path is proposed to connect Wexford Drive to the Brandywine Street cul-de-sac to enhance pedestrian connectivity to Rock View Elementary School located north of the site on Denfeld Avenue. This asphalt path will be constructed to County shared use path standards in the location of the existing driveway to the swimming pool. A public use and access easement will be required to ensure community accessibility. In some places this public use and access easement will overlap with required storm drain easements. A Category I forest conservation area is proposed along the southern and western Property boundaries.

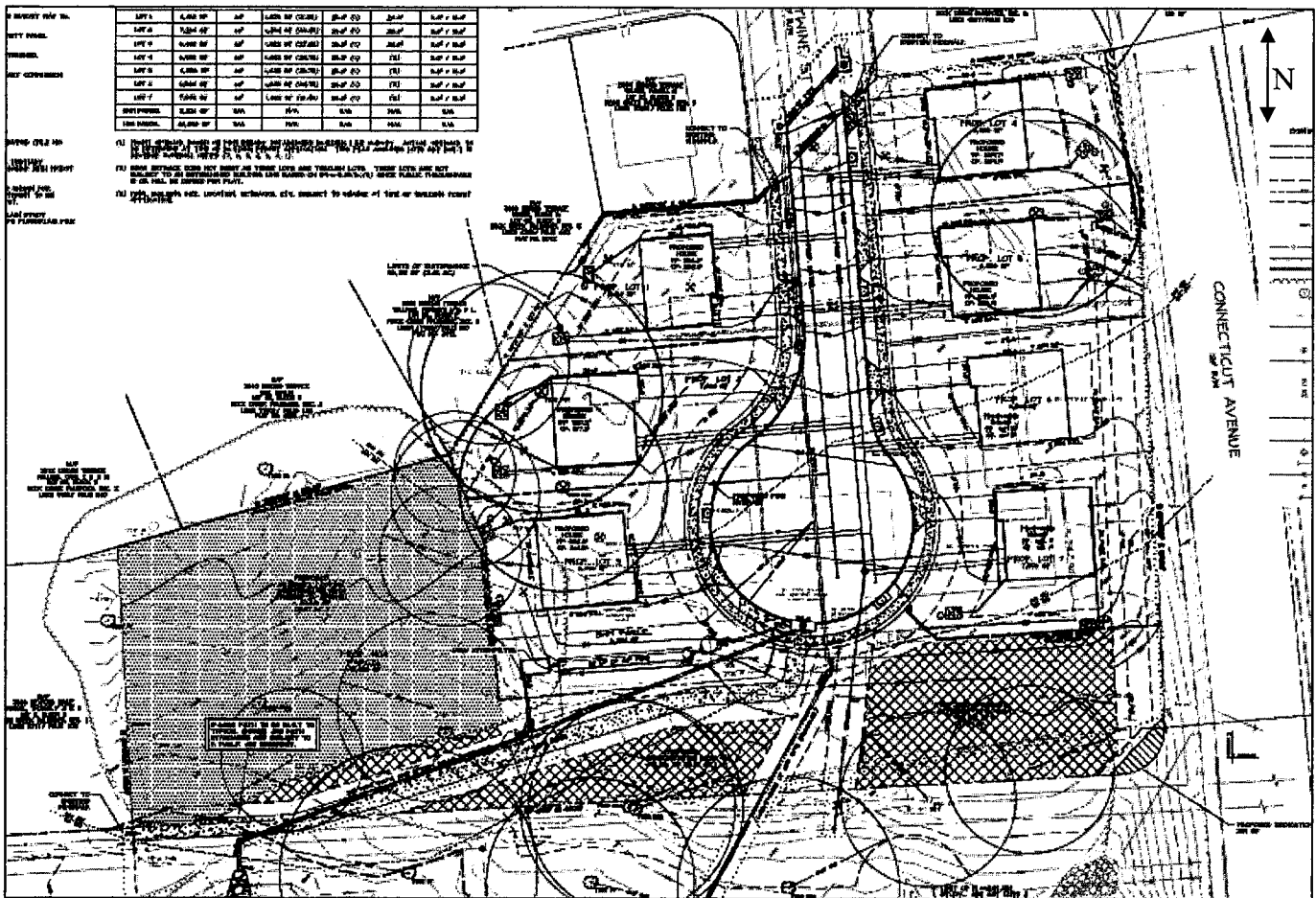


Figure 2: Preliminary Plan

ANALYSIS AND FINDINGS

Substantial Master Plan Conformance

The 1989 Master Plan for the Communities of Kensington-Wheaton does not make specific recommendations for the Subject Property. The Plan has a primary objective to maintain “the well-established low- to medium-density residential character which prevails over most of the planning area.” The Plan states as a policy that “all infill residential development be similar in character and compatible in density with the immediate neighborhood within which it is contained.” In addition, the Plan recommends that Wexford Drive not be connected to Connecticut Avenue for environmental reasons. The proposed development, on the site of a former swim club, meets the Plan’s definition of infill development. The density of the proposed plan is 2.84 units per acre which is significantly lower than R-60 zoning standards allow. The lots are comparable in size and layout to the surrounding neighborhood, which is discussed in greater detail in the resubdivision analysis section on page 7 of this report. The proposed development places afforestation areas adjacent to the undeveloped Wexford Drive right-of-way, which will help preserve steep slopes and forested areas. For these reasons, the preliminary plan substantially conforms to 1989 Master Plan for the Communities of Kensington-Wheaton.

Public Facilities

Roads and Transportation Facilities

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation Review. The Property is, however, subject to Policy Area Mobility Review (PAMR) because it is located in the Kensington/Wheaton Policy Area where there is a 10% trip mitigation requirement. Seven new trips are being generated by the proposed development and therefore the Applicant must mitigate one trip to satisfy PAMR. The Applicant has chosen to satisfy this trip mitigation requirement by making a monetary payment to MCDOT. As discussed below, vehicular and pedestrian access for the subdivision will be safe and adequate with the proposed public and private improvements.

Vehicular Connections

The Property has frontage on three roadways: Connecticut Avenue, Wexford Drive and Brandywine Street. Connecticut Avenue is a major highway requiring 120 feet of right-of-way. The right-of-way for Connecticut Avenue is currently adequate along the Property frontage and no additional dedication is necessary. MDSHA will not allow access to Connecticut Avenue in this location. One hundred feet of dedicated right-of-way for Wexford Drive exists along the southern boundary of the Subject Property from the current termination of Wexford Drive to Connecticut Avenue. The existing portion of Wexford Drive was built in a stream valley that extends along the front of the Subject Property. There is a grade differential of 28 feet from Brandywine Street to Wexford Drive and a 60 foot drop from Connecticut Avenue to the low point in the unbuilt Wexford Drive right-of-way. Any extension of Wexford Drive would require substantial engineering activities that would greatly disturb the existing above-ground stream and environmentally sensitive areas located within this portion of unbuilt right-of-way. Therefore,

Wexford Drive is not being extended and Brandywine Street, an existing secondary residential street, is proposed to be extended by the Applicant as the point of access for all proposed lots. Sixty feet of right-of-way is currently provided for Brandywine Street north of the Subject Property with a 26-foot paved roadway and 5-foot wide sidewalks on both sides of the street. The Applicant, with concurrence from MCDOT and M-NCPPC Transportation Planning Staff, proposes to dedicate 50 feet of right-of-way for the extension of Brandywine Street into the Property but will maintain 26 feet of pavement width and 5 foot-wide sidewalks that will connect to existing sidewalk north of the site. Brandywine Street will terminate in a standard, 90-foot diameter paved cul-de-sac and will not connect to Wexford Drive.

Pedestrian Connections

As part of the analysis for road extensions for this application, Staff also considered necessary pedestrian and bicycle trails. The 1989 Master Plan for the Communities of Kensington-Wheaton recommended a multi-use trail through the right-of-way for Wexford Drive extending across Connecticut Avenue, but the 2005 Countywide Bikeways Functional Master Plan does not include this recommendation. Nevertheless, Staff considered options for a shared use path connection roughly following the recommendation in the Kensington-Wheaton master plan. The Applicant provided multiple alternatives but a shared use path in the unbuilt right-of-way for Wexford Drive was ultimately deemed infeasible because of significant grading and disturbance to the stream, stream valley buffer and forest that would be necessary to address the 40-50% steep slope that exists between flat area within the Wexford Drive unbuilt right-of-way and Connecticut Avenue at grade. Furthermore, MDSHA would not accept any path that required removing a portion of the retaining wall or guardrail along Connecticut Avenue and was not receptive to connecting to a path that would not meet ADA requirements.

The requirement to avoid the guardrail and meet ADA standards left one option for the Applicant and Staff to pursue: to construct a trail from the current termination of Wexford Drive up to the Brandywine Street cul-de-sac and then between proposed houses on the northern portion of the site to connect to Connecticut Avenue beyond the portions of guardrail along the Property's Connecticut Avenue frontage. Staff concluded that a path between two proposed homes would be problematic because a path, whether private or public in this location, would create maintenance, liability and privacy issues for future homeowners; the path would not connect to a midblock crossing within Connecticut Avenue; and the path could not connect to a street or path across Connecticut Avenue in this location and meet master plan goals.

After weighing all the options, MCDOT staff and MNCPPC Transportation Planning Staff agreed that a trail connection across Connecticut Avenue was not feasible in this location but connecting Wexford Drive to the Brandywine Street cul-de-sac and thus providing greater mobility options for neighborhood residents to Rock View Elementary School was still a desired improvement. The Applicant's proposal to provide an asphalt path utilizing the existing driveway for the swimming pool to the greatest extent possible will best minimize impacts to the stream valley buffer on the site. As a result, the preliminary plan depicts an 8 foot-wide path to be built to County shared use path standards in a 20 foot-wide private path and storm drain easement that connects sidewalk along the Brandywine Street cul-de-sac to existing sidewalk along Wexford Drive. The path will not be public because it will not meet ADA standards due to the slope of the Property in this location.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. The application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. Area schools are operating at adequate levels; therefore, the Subject Property is not within a school moratorium area and a school facilities payment is not required. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the lots.

Environment

Environmental Guidelines

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the Property prior to submission of the preliminary plan. Environmental Planning staff approved NRI/FSD #420072870 on August 16, 2007 and later recertified it on February 17, 2009. The plan delineates the extent of stream valley buffer and forest on the Property.

There is a substantial area of existing encroachment into the on-site stream valley buffer by the swim club's entrance driveway off of Wexford Drive. Ordinarily, this pavement would be completely removed as part of the redevelopment of this property. As aforementioned, however, the existing pavement presents an opportunity to create a non-vehicular connection by modifying the pavement to comply with County shared use path requirements. Staff supports this continued encroachment within the stream valley buffer because it provides an important connection to the terminus of the proposed cul-de-sac on Brandywine Street. The encroachment will be offset by removal of additional paved parking within the buffer, reforestation of the buffer, and permanent forest protection adjacent to the buffer.

The only other stream valley buffer encroachment proposed for this development is for necessary stormwater conveyance and sewer connections. These areas have been minimized by combining and overlapping disturbance to the greatest extent possible. For example, one of the stormwater conveyances runs underneath the shared use path and the other is adjacent to the sewer connection.

Forest Conservation

The forest conservation plan for this application shows the removal of 0.53 acres of forest for the proposed lots, retention of 0.46 acres, and planting of 0.23 acres. An additional 0.04 acres of forest will be removed for stormwater conveyances and a sewer connection. All forest conservation planting requirements will be met on-site through the planting of all practical areas of stream valley buffer not covered by a stormdrain or sewer easement. There is one small triangle of stream valley buffer between the sewer easement and one of the stormwater outfalls that will not be reforested, as it would create an isolated fragment.

Newly enacted provisions of Natural Resources, Title 5, Section 5-1607 of the Maryland Code require the Applicant to file an application for a variance to remove trees that are 30" DBH and greater or trees that are 75 percent the diameter of the county champion for that species, if a

project did not receive approval of a Preliminary Forest Conservation Plan prior to October 1, 2009. Since this application proposes to remove three trees greater than 30 inches DBH and greater, a variance is required. The trees that will be removed are a 31” tulip tree in good condition, a 36” tulip tree in good condition, and a 31” red oak in good condition.

Section 22A-21(c) of the Forest Conservation Law requires the Planning Board to refer a copy of each variance request to the County Arborist in the Montgomery County Department of Environmental Protection (MCDEP) for a written recommendation prior to acting on the request. The County Arborist has 30 days to comment. If the County Arborist does not provide a recommendation within 30 days, the Planning Board can act without comment from MCDEP. In this case, the variance request was referred to the Montgomery County Arborist within MCDEP on September 29, 2009. The County Arborist has elected not to review the variance request (see Attachment A).

To grant the requested variance the Planning Board must find that the request:

1. Will not confer on the applicant a special privilege that would be denied to other applicants;
2. Is not based on conditions or circumstances which are the result of the actions by the applicant;
3. Does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
4. Will not violate State water quality standards or cause measurable degradation in water quality.

Staff recommends that the Planning Board find as follows:

1. The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. All three of the large trees requested to be removed are located interior to the project site, outside of the stream valley buffer. None of the trees are champion trees or 75% of the DBH of the state champion tree for that species. The circumstances related to this variance are not unique, nor avoidable, except by denying development. Therefore, staff believes the variance is not a special privilege that would be denied to other applicants.
2. The requested variance is not based on conditions or circumstances which are the result of actions by the applicant. The requested variance is based on site layout and design for a single family development in the R-60 zone and the necessary road extension. An alternate lot layout would not alter the need for the removal of these three trees.
3. The requested variance is a result of the proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property.
4. The requested variance will not violate State water quality standards or cause measurable degradation in water quality. Under section 22A-16(d) of the County code “*The Board*

or Director may treat any forest clearing in a stream buffer, wetland or special protection area as creating a rebuttable presumption that the clearing had an adverse impact on water quality.” In this case, the specimen trees proposed to be removed are not within a stream buffer, wetland or a special protection area and as such it is presumed that the removal of these individual trees would not cause degradation to water quality.

In consideration of the above findings, staff recommends that the Planning Board approve the forest conservation plan and the applicant’s request for a variance from the Forest Conservation Law to remove the three trees subject to the newly enacted provisions of the Maryland Code.

Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on August 13, 2009. The concept consists of on-site water quality control via disconnecting rooftop drains, sheet flow to buffer, a proprietary underground filter, and Filterra(s). On-site recharge is provided by using drywells. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cubic feet per second.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations and Chapter 59, the Zoning Ordinance. The application meets all applicable sections, including the requirements for resubdivision as discussed below (if applicable). The proposed size, width, shape and orientation of the lots are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the R-60 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. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Conformance with Section 50-29(b)(2)

A. Statutory Review Criteria

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, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate "Neighborhood" for evaluating the application. In this instance, the Neighborhood selected by the Applicant, and agreed to by Staff, consists of 15 lots and is depicted below. The neighborhood includes lots along Brandywine Street (but not parts of lots) and lots along Kincaid Terrace that will be impacted by the proposed point of access and subsequent development. All the lots share the same zoning classification as the Subject Property. The designated Neighborhood provides an adequate sample of the lot and development pattern of the area. A tabular summary of the area based on the resubdivision criteria is included in Attachment B.



C. Analysis

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, the above-noted resubdivision criteria were applied to the delineated neighborhood. The proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined Neighborhood. Therefore, the proposed resubdivision

complies with the criteria of Section 50-29(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Frontage: Property frontages at the street line in the 15 lot Neighborhood range from 51.01 feet to 144.11 feet. Street frontages for the 6 proposed lots range from 56 to 76.1 feet. There are 6 existing lots with smaller frontage than the proposed lots and 2 existing lots are only slightly larger than the minimum frontage proposed. Lots with the largest street frontage in the Neighborhood are corner lots. **The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.**

Alignment: Seven lots in the designated Neighborhood have a perpendicular alignment to the street, 3 lots have a radial alignment and 5 lots are corner lots. **The proposed lots will have a perpendicular alignment to Brandywine Street and will, therefore, be of the same character as existing lots with respect to the alignment criterion.**

Size: Lot sizes in the Neighborhood range from 5,401 square feet to 9,252 square feet. Four of the 15 lots in the Neighborhood are less than 6,000 square feet because these lots were recorded prior to the R-60 zoning classification. Of the remaining 11 lots, 5 lots are between 6,000 and 7,000 square feet in size. The proposed lot sizes will range from 6,008 square feet to 7,573 square feet, with all but 2 being greater than 6,500 square feet. **The seven proposed lots are in character with the size of existing lots in the neighborhood.**

Shape: There are 6 irregularly-shaped lots in the Neighborhood, 6 rectangular lots and 3 lots have a trapezoidal shape. Four proposed lots will be rectangular in shape and 3 lots will be irregularly-shaped. **The shapes of the proposed lots will be in character with shapes of the existing lots.**

Width: Lot widths in the Neighborhood range from 55 feet to 76.8 feet at the building line. Eight lots in the Neighborhood are less than 60 feet in width. Four proposed lots will be 60 feet in width and the remaining proposed lots are 62, 64 and 73 feet in width. **The proposed lots will be in character with existing lots in the Neighborhood with respect to width.**

Area: The size of buildable areas in the 15 lot Neighborhood range from 795 square feet to 4,553 square feet. Ten lots in the Neighborhood have a buildable area larger than 2,000 square feet. The proposed lots will have buildable areas ranging from 2,081 square feet to 2,802 square feet. **The proposed lots will be of the same character as other lots in the Neighborhood with respect to buildable area.**

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

Citizen Correspondence and Issues

The Applicant notified adjacent and confronting property owners of the plan submission, as required. As of the date of this report, one concern has been brought to the attention of M-NCPPC Staff. A neighbor has requested that the developer of the Property access the site via Connecticut Avenue during construction to minimize impacts to residents of Brandywine Street and Kincaid Terrace. Staff has contacted the Applicant and the applicable agencies to ensure that such an option is pursued and to encourage the Applicant and/or eventual developer to first request a permit from MDSHA for a construction entrance on Connecticut Avenue prior to any request from MCDOT for a Brandywine Street construction entrance. Staff realizes that MDSHA might not grant this request due to conflicting construction activity times and heavy vehicular traffic on Connecticut Avenue, and also realizes that there may be unforeseen limitations to where construction activity can occur, but does believe a construction entrance from Connecticut Avenue could alleviate potential conflicts.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and comply with the recommendations of the Kensington-Wheaton Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, Staff recommends approval of the application with the conditions specified above is recommended.

Attachments

- Attachment A – Letter from DEP
- Attachment B – Resubdivision Data Table
- Attachment C – Agency Correspondence

Table 1: Preliminary Plan Data Table and Checklist

| Plan Name: Hermitage | | | | |
|--|--|--|----------------------------|-----------------|
| Plan Number: 120080270 | | | | |
| Zoning: R-60 | | | | |
| # of Lots: 7 | | | | |
| # of Outlots: 0 | | | | |
| Dev. Type: Standard, Residential | | | | |
| PLAN DATA | Zoning Ordinance Development Standard | Proposed for Approval by the Preliminary Plan | Verified | Date |
| Minimum Lot Area | 6,000 sq. ft. | 6,008 sq. ft. is min. proposed | EG | 12/9/09 |
| Lot Width | 60 ft. | 60 ft. is min. proposed | EG | 12/9/09 |
| Lot Frontage | 25 ft. | 56 ft. is min. proposed | EG | 12/9/09 |
| Setbacks | | | | |
| Front | 25 ft. Min. | Must meet minimum ¹ | EG | 12/9/09 |
| Side | 8 ft. Min./18 ft. total | Must meet minimum ¹ | EG | 12/9/09 |
| Rear | 20 ft. Min. | Must meet minimum ¹ | EG | 12/9/09 |
| Height | ft. Max. | May not exceed maximum ¹ | EG | 12/9/09 |
| Max Resid'l d.u. or Comm'l s.f. per Zoning | 17 lots | 7 lots | EG | 12/9/09 |
| MPDUs | No | | EG | 12/9/09 |
| TDRs | No | | EG | 12/9/09 |
| Site Plan Req'd? | No | | EG | 12/9/09 |
| FINDINGS | | | | |
| SUBDIVISION | | | | |
| Lot frontage on Public Street | | Yes | EG | 12/9/09 |
| Road dedication and frontage improvements | | Yes | SHA & MCDOT Agency letters | 5/8/08, 5/13/09 |
| Environmental Guidelines | | Yes | Staff memo | 12/11/09 |
| Forest Conservation | | Yes | Staff memo | 12/11/09 |
| Master Plan Compliance | | Yes | EG | 12/9/09 |
| Other (i.e., parks, historic preservation) | | | | |
| ADEQUATE PUBLIC FACILITIES | | | | |
| Stormwater Management | | Yes | Agency letter | 8/13/09 |
| Water and Sewer (WSSC) | | Yes | Agency comments | 5/12/08 |
| 10-yr Water and Sewer Plan Compliance | | Yes | Agency comments | 5/12/08 |
| Well and Septic | | N/a | EG | 12/9/09 |
| Local Area Traffic Review | | N/a | Staff memo | 5/12/08 |
| Policy Area Mobility Review | | Yes | Staff memo | 5/12/08 |
| Transportation Management Agreement | | No | Staff memo | 5/12/08 |
| School Cluster in Moratorium? | | No | EG | 12/9/09 |
| School Facilities Payment | | No | EG | 12/9/09 |
| Fire and Rescue | | Yes | Agency letter | 9/22/09 |
| Other (i.e., schools) | | | | |

¹ As determined by MCDPS at the time of building permit.



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

October 27, 2009

Royce Hanson, Chairman
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Mainhart Property #120070730 and #820070250 (2/10/06)
Hermitage Property #120080270 (3/11/08)
Muncaster Manor #120070730 (8/12/08)
Hanson Property, Case G-884 (7/23/09)

Dear Dr. Hanson:

On September 29, 2009, I received a letter from Mark Pfefferle requesting the review of the above referenced variance requests as a result of changes to the State's Forest Conservation Act (FCA) that became effective on October 1, 2009. The FCA now requires anyone subject to the law who is disturbing certain vegetation to prove that they qualify for a variance. As you know, under Chapter 22A-21 of the Montgomery County Code, the variance process requires a review by the County Arborist in the Department of Environmental Protection (DEP).

The County Attorney's Office has advised DEP that the new provisions of the FCA do not apply to applications submitted before October 1, 2009. Since the applications for the above referenced requests were submitted before this date, the County Arborist will not be providing a recommendation pertaining to these requests. It should be noted that for one of the properties for which a variance has been requested, the Mainhart property, the initial application for development of this property was made way back in 2006. It would certainly seem unfair to apply the requirements of a law that did not become effective until more than three years later to this application.

We will be in contact with the Planning Department as we develop DEP's future actions related to these new requirements of the FCA. If you have any questions about this matter, please do not hesitate to contact me.

Sincerely,

Robert G. Hoyt
Director

cc: Walter Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief, Green Division, MNCPPC

120080270 HERMITAGE RESUBDIVISION DATA TABLE

| LOT | SIZE | SHAPE | WIDTH | FRONTAGE | ALIGNMENT | BUILDABLE AREA | SUITABILITY |
|------------------|------|-------------|-------|----------|---------------|-------------------|-------------|
| 40 | 6885 | IRREGULAR | 76.1 | 144.11 | CORNER | 1906 | RESIDENTIAL |
| 41 | 6993 | IRREGULAR | 60.9 | 59 | PERPENDICULAR | 2496 | RESIDENTIAL |
| 19 | 5443 | IRREGULAR | 76.7 | 139.57 | CORNER | 795 | RESIDENTIAL |
| 2 | 6050 | RECTANGULAR | 55 | 55 | PERPENDICULAR | 2785 | RESIDENTIAL |
| 3 | 6050 | RECTANGULAR | 55 | 55 | PERPENDICULAR | 2245 | RESIDENTIAL |
| 4 | 6050 | RECTANGULAR | 55 | 55 | PERPENDICULAR | 2511 | RESIDENTIAL |
| 22 | 5446 | RECTANGULAR | 73.7 | 139.57 | CORNER | 1037 | RESIDENTIAL |
| 23 | 5741 | IRREGULAR | 56.2 | 56.2 | PERPENDICULAR | 3130 | RESIDENTIAL |
| 24 | 5401 | RECTANGULAR | 76.8 | 139.2 | CORNER | 1575 | RESIDENTIAL |
| 58 | 8126 | TRAPEZOIDAL | 55.06 | 51.01 | RADIAL | 3804 | RESIDENTIAL |
| 59 | 8573 | TRAPEZOIDAL | 55.97 | 51.01 | RADIAL | 4100 | RESIDENTIAL |
| 60 | 9252 | TRAPEZOIDAL | 56.65 | 51.01 | PERPENDICULAR | 4553 | RESIDENTIAL |
| 61 | 8942 | IRREGULAR | 58.9 | 79.26 | RADIAL | 4179 | RESIDENTIAL |
| 62 | 6778 | IRREGULAR | 61.9 | 63.94 | PERPENDICULAR | 2484 | RESIDENTIAL |
| 63 | 5822 | RECTANGULAR | 72.1 | 151.1 | CORNER | 1876 | RESIDENTIAL |
| Proposed Lots | | | | | | | |
| 1 | 6010 | IRREGULAR | 62 | 66 | PERPENDICULAR | 2081 | RESIDENTIAL |
| 2 | 7260 | IRREGULAR | 60 | 76.1 | PERPENDICULAR | 2768 | RESIDENTIAL |
| 3 | 6008 | IRREGULAR | 64 | 62.4 | PERPENDICULAR | 2123 | RESIDENTIAL |
| 4 | 6565 | RECTANGULAR | 60 | 56 | PERPENDICULAR | 2478 | RESIDENTIAL |
| 5 | 6838 | RECTANGULAR | 60 | 60 | PERPENDICULAR | 2692 | RESIDENTIAL |
| 6 | 6560 | RECTANGULAR | 60 | 62.1 | PERPENDICULAR | 2484 | RESIDENTIAL |
| 7 | 7573 | RECTANGULAR | 73 | 64 | PERPENDICULAR | 2802 | RESIDENTIAL |



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

August 13, 2009

Carla Reid
Director

Mr. Eric B. Tidd, P.E.
CAS Engineering
108 West Ridgeville Boulevard, Suite 101
Mount Airy, MD 21771

Re: Stormwater Management **CONCEPT** Request
for Hermitage
Preliminary Plan #: 120080270
SM File #: 232633
Tract Size/Zone: 2.46 Ac./R-60
Total Concept Area: 2.46 Ac.
Parcel(s): 631
Watershed: Lower Rock Creek

Dear Mr. Tidd:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control via roof top disconnect, sheet flow to buffer, a proprietary underground filter, and Filterra(s) (or MCDPS approved equivalent). Onsite recharge is provided through the use of drywells. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:


1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. The StormFilter or approved equivalent is to be designed as a volume based structure.
6. The Filterras are to provide treatment of a minimum of 25% of the road right-of-way. Also the Filterra(s) or approved equivalent is to be drain to the quality structure.
7. Provide a soils report to verify that all the drywells are in existing soils. If in fill please revise concept.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,

Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm CN232633 Hermitage.DWK

cc: C. Conlon
M. Pfefferle
SM File # 232633

QN -Onsite; Acres: 2.46
QL - Onsite; Acres: 2.46
Recharge is provided





Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

May 8, 2008

Ms. Catherine Conlon
Supervisor, Development Review
Subdivision Division
Maryland National Capital
Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Montgomery County
Hermitage
File #: 1-20080270
MD 185 (Connecticut Ave.)

Dear Ms. Conlon:

The State Highway Administration (SHA) appreciates the opportunity to review the preliminary plan application for the Kensington Heights development. We offer the following comments:

- Proposed access is to a County-maintained road and is subject to the permit process and requirements of the Montgomery County Department of Public Works and Transportation.
- SHA will require that right-of-way dedications/donations be platted to SHA standards. The plats must be revised to say denial of access to MD 193 for the 4 adjacent lots. These plats must be submitted in hard copy format for review, checking and final issuance. Please contact Mr. Daniel Andrews, Assistant Division Chief, Plats and Surveys Division at (410) 545-8860 or via email at dandrews@sha.state.md.us for more information and any questions regarding the plat review process. Additionally, please contact Mr. Paul Lednak, Chief, District 3 Right of Way at (301) 513-7470 for information regarding the deed process.

If you have any questions or require additional information, please contact Ms. Corren V. Giles at (410) 545-5595, toll free at (800) 876-4742, or via email at cgiles@sha.state.md.us.

Sincerely,

A handwritten signature in blue ink that reads "Corren V. Giles".

for Steven D. Foster, Chief
Engineering Access Permits Division

SDF/cvg

Cc: Ms. Caroline Serafinas / CAS Engineering / 108 W. Ridgeville Boulevard, Suite 101, Mount Airy, Maryland 21771
Mr. Sterling Mehring / 2505 Forest Glen Road, Silver Spring, Maryland 20910
Mr. Shahriar Etemadi / M-NCPPC
Mr. Sam Farhadi / Montgomery County DPW&T

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street · Baltimore, Maryland 21202 · Phone: 410.545.0300 · www.marylandroads.com

Ms. Catherine Conlon

Page 2

Mr. Jeff Wentz *sent via e-mail*

Ms. Kate Mazzara *sent via e-mail*

Mr. Augustine Rebish *sent via e-mail*

Mr. Daniel Andrews *sent via e-mail*

Mr. Paul Lednak *sent via e-mail*



RECEIVED

DEVELOPMENT REVIEW

DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

May 13, 2008

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-20080270
Hermitage

Dear Ms. Conlon:

We have completed our review of the preliminary plan signed on 04/02/08. This plan was reviewed by the Development Review Committee at its meeting on May 12, 2008. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Show/label all existing planimetric and topographic details specifically driveways adjacent and opposite the site on the preliminary plan.
2. Right of way dedication for Connecticut Ave in accordance with the Master Plan and for Wexford Drive as necessary as well as truncation at their intersection.
3. Full width dedication and construction of Brandywine Street extension (MC-211.01) per secondary residential roadway standards terminating in a standard cul-de-sac (MC-222.01).
4. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
5. Prior to approval of the record plat by the Department of Permitting Services (DPS), the applicant's consultant will need to obtain the approval of grade establishments for new public streets from DPS.
6. Record plat to reflect denial of access along Wexford Drive and Connecticut Ave.
7. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.

Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
240-777-6000 • 240-777-6013 TTY • 240-777-6030 FAX

www.montgomerycountymd.gov

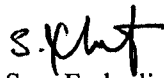
8. In accordance with Section 49-35(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided on both sides of the proposed public streets according to associated DPWT standard street section unless the applicant is able to obtain a waiver from the appropriate government agency.
9. The owner will be required to furnish this office with a recorded covenant whereby said owner agrees to pay a prorata share for the future construction or reconstruction of Wexford Drive, whether built as a Montgomery County project or by private developer under permit, prior to DPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
10. In accordance with Section 50-35(n) of the Montgomery County Code, we recommend the Montgomery County Planning Board require the applicant to construct an off-site sidewalk to connect with Wexford Drive, Brandywine Street and Connecticut Ave. We also recommend sidewalk set back and providing grass panel along Connecticut Ave.
11. Access and improvements along Connecticut Ave (MD 185) as required by the Maryland State Highway Administration.
12. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
13. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
14. Trees in the County rights of way - species and spacing to be in accordance with the applicable DPWT standards. A tree planting permit is required from the Maryland Department of Natural Resources, State Forester's Office [(301) 854-6060], to plant trees within the public right of way.
15. Please coordinate with Department of Fire and Rescue about their requirements for emergency vehicle access.
16. Provide driveway access for the stormwater management facilities per associated DPS guidelines.
17. Public Improvements Agreement (PIA) will be an acceptable method of ensuring construction of the required public improvements within the County right of way. The PIA details will be determined at the record plat stage. The PIA will include, but not necessarily be limited to, the following improvements:
 - A. Street grading, paving, curbs and gutters, sidewalks and handicap ramps, storm drainage and appurtenances, and street trees along Brandywine Street.
 - B. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.

Ms. Catherine Conlon
Preliminary Plan No. 1-20080270
Date May 13, 2008
Page 3

- C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- D. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- E. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Sam Farhadi, P.E.
Development Review Group
Traffic Engineering and Operations Section
Division of Operations

m:/subdivision/farhas01/preliminary plans/ 1-20080270, Hermitage.doc

Enclosures ()

cc: Sterling Mehring, Robert Connor LLC
Caroline Serafinas, CAS Engineering
Joseph Y. Cheung; DPS RWPPR
Sarah Navid; DPS RWPPR
Henry Emery; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Gregory Leck, DPWT TEOS
John Borkowski, MSHA
Preliminary Plan Folder
Preliminary Plans Note Book



FIRE MARSHAL COMMENTS

DATE: 22-Sep-09
TO: Caroline Serafinas
CAS Engineering
FROM: Tyler Mosman
RE: Hermitage
1-20080270

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **04-Sep-09**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.