



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

OCT - 9 2009

MCPB No. 09-122
Preliminary Plan No. 120080250
Kensington Heights
Date of Hearing: September 17, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on March 13, 2008, Wheaton Land Investment, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 13 lots and two outlots on 3.06 acres of land located on the south side of University Boulevard, 220 feet east of Hobson Street ("Property" or "Subject Property"), in the Kensington/Wheaton Master Plan area ("Master Plan"); and

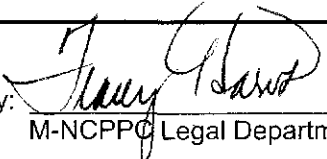
WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080250, Kensington Heights ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated September 4, 2009, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on September 17, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

WHEREAS, on September 17, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Alfandre, Hanson, and Wells-Harley voting in favor; Commissioners Cryor and Presley being absent.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120080250 to create 13 lots and two outlots on 3.06 acres of land located on the south side of University Boulevard, 220 feet east of Hobson Street ("Property" or "Subject Property"), in the Kensington Wheaton Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 13 lots for 13 one-family detached dwelling units and two outlots.
- 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 Applicant must satisfy the Policy Area Mobility Review (PAMR) requirement by mitigating two trips (10% of the 16 new trips expected from the site) within the peak hour of weekday evening peak period. The Applicant must secure approval of the proposed mitigation measures and the timing for implementing the PAMR project from M-NCPPC and Montgomery County Department of Transportation (MCDOT) prior to recordation of plat.
- 4) The Applicant must dedicate and the record plat must show dedication of approximately 11,500 square feet of right-of-way for a 50-foot wide (as measured from the opposite right-of-way line) extension of the right-of-way for Moore Lane and approximately 5,650 square feet of right of way for a 50-foot wide (as measured from the opposite right-of-way line) extension of the right-of-way for Decatur Avenue.
- 5) 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 to the design standards imposed by all applicable road codes. Moore Lane and Decatur Avenue must be constructed to tertiary residential street standards.
- 6) The Applicant must construct sidewalks as shown on the Preliminary Plan as follows:
 - a. Reconstruct the sidewalk along the Property frontage on University Boulevard to be six feet wide, located two feet from the property line and including a landscape panel with street trees between the curb and the sidewalk.

- b. Construct a four-foot-wide sidewalk on the north side of the proposed Moore Lane extension.
 - c. Construct a four-foot-wide sidewalk on the north side of the proposed Decatur Avenue extension.
 - d. Construct a four-foot-wide sidewalk on the east side of Hobson Street between Decatur Avenue and Moore Lane.
 - e. Provide at-grade sidewalk crossings of the driveways on Moore Lane and Decatur Avenue.
- 7) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
 - 8) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
 - 9) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated May 21, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 10) The Applicant must comply with the conditions of the MCDOT letter dated August 19, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 11) The Applicant must comply with the conditions of the MDSHA letter dated April 18, 2008. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
 - 12) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
 - 13) The record plat must show all necessary easements.
 - 14) 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 given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Kensington/Wheaton Master Plan recommends that the Subject Property be developed with one-family detached dwellings, as proposed in this Application. Further, the Master Plan recommends no access be provided from University Boulevard. Rather, the Master Plan recommends that access to the

Property be provided from Moore Lane, as is proposed. The proposed subdivision substantially conforms to the Master Plan in that it proposes one-family detached dwellings with access from Moore Lane and other interior neighborhood streets.

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

Roads and Transportation Facilities

The site is expected to generate 14 and 16 peak hour trips during the weekday morning and evening peak periods, respectively. Therefore, the Applicant is not required to submit a traffic study because the proposed site will generate less than 30 peak hour trips, the minimum required trips to trigger Local Area Transportation Review.

The site is located within the Kensington/Wheaton Policy Area, and, therefore, 10% of the site's new trips must be mitigated to meet the requirements of Policy Area Mobility Review (PAMR). The Applicant has not yet submitted a proposal to mitigate these trips, but a condition of the Application approval requires the Applicant to submit their proposed mitigation measures for M-NCPPC and MCDOT staff approval prior to recordation of any plat(s).

Vehicular access to the proposed lots will be provided by individual and/or shared driveways from the proposed extensions of Moore Lane and Decatur Avenue. Pedestrian access will be provided by proposed sidewalks on Moore Lane, Decatur Avenue, and Hobson Street. The existing sidewalk on University Boulevard is proposed to be reconstructed to be six feet wide.

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and public sewer. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, schools, and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. The Application is not within a school moratorium area, and a

school facilities payment is not required. Electrical, telecommunications, and natural gas services are also available to serve the Subject Property.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application 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.

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. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

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

The site contains 1.86 acres of existing forest. All on-site forest is proposed to be cleared to accommodate the proposed subdivision. The total reforestation and afforestation requirement is 1.7 acres, which will be provided off-site.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept on May 21, 2009. The stormwater management concept includes on-site channel protection, overbank flood protection and extreme flood measures via underground storage; on-site water quality control via underground filters, drywells, and a curb inlet biofiltration structure; and on-site recharge via drywells. The underground stormwater management facility will drain into a proposed stormdrain pipe that will be installed in the Hobson Street right-of-way and will connect to an existing stormdrain pipe at the intersection of Hobson Street and Mc Comas Avenue.

6. *The proposed 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 by Staff in the Staff Report) ("Neighborhood"), as analyzed below.*

Size: The lots in the delineated neighborhood range from 5,000 square feet to 20,987 square feet. Thirty of the lots are smaller than 6,000 square feet, 26 are between 6,000 and 10,000 square feet, and eight are between 10,000 and 20,987 square feet. Twelve of the proposed lots are between 6,400 and 8,500 square feet and one proposed lot is 10,796 square feet. The proposed lot sizes are in character with the size of existing lots in the neighborhood.

Width: The lots in the delineated neighborhood range from 34 feet to 137 feet in width. Thirty-five of the lots have widths of less than 60 feet, 14 lots have widths between 60 and 80 feet, and the remaining 15 lots have widths of more than 80 feet. Four proposed lots will have widths of 60 feet and the remaining nine lots will widths between 73 and 75 feet. The proposed lots will be in character with existing lots in the neighborhood with respect to width.

Frontage: In a neighborhood of 64 lots, lot frontages range from 25 feet to 211 feet. Thirty-nine of the lots have frontages of less than 60 feet, eleven lots have frontages between 60 and 100 feet, and the remaining fourteen lots have frontages of 100 feet or more. One proposed lot has a frontage of 31 feet, and the remaining twelve proposed lots have frontages between 61 and 75 feet. The 31-foot frontage is a result of the configuration of Decatur Avenue, which curves away from proposed Lot 13, providing space for an intervening wedge of a separately-owned property. Although proposed Lot 13 is near the low end of the range with respect to frontage, there are three existing lots in the neighborhood with narrower frontages. The narrow frontage will not be visually apparent from the public right-of-way because the shared driveway access for this lot will be located on the adjacent lot, giving the appearance of wider frontage. The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.

Area: The lots in the delineated neighborhood range from 962 square feet to 10,309 square feet in buildable area. Twenty-one of the lots have a buildable area less than 2,000 square feet, 37 are between 2,000 and 4,000 square feet, and six are between 4,000 and 10,309 square feet. Eleven of the proposed lots have a buildable area between 2,000 and 4,000 square feet and two of the proposed lots have a buildable area between 4,000 and 6,000

square feet. The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area.

Alignment: Fifty-three of the sixty-four existing lots in the neighborhood are perpendicular in alignment, one is radial, and the remaining ten are corner lots. The 13 proposed lots are perpendicular in alignment. The proposed lots are of the same character as existing lots with respect to the alignment criterion.

Shape: Thirty-seven of the existing lots in the neighborhood are rectangular, ten are irregularly shaped, three are pipestem lots, 13 are trapezoidal, and one is triangular in shape. Nine of the proposed lots are rectangular and the remaining four lots are generally rectangular in shape. The shapes of the proposed lots will be in character with shapes of the existing lots.

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is 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), as amended) 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 among the Land Records of Montgomery County, Maryland 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 OCT - 9 2009 (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 Commissioner Wells-Harley, seconded by Commissioner Alfandre, with Commissioners Hanson, Alfandre, Presley, and Wells-

MCPB No. 09-122
Preliminary Plan No. 120080250
Kensington Heights
Page 8 of 8

Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, October 1, 2009, in Silver Spring, Maryland.

A handwritten signature in black ink, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board