



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

NOV 4 2009

MCPB No. 09-129
Preliminary Plan No. 120090040
Harry Martin Tract
Date of Hearing: October 1, 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 October 1, 2009, Stefan Szell ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 1.11 acres of land located on the east side of Alderton Road, 300 feet south of Alderton Lane ("Property" or "Subject Property"), in the Aspen Hill master plan area ("Master Plan"); and

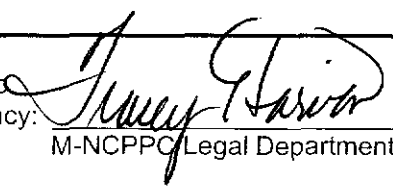
WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090040, Harry Martin Tract ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated September 9, 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 October 1, 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 October 1, 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 4-0, Commissioners Alfandre, Hanson, Presley and Wells-Harley voting in favor, Commissioner Cryor 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. 120090040 to create 2 lots on 1.11 acres of land located On the east side of Alderton Road, 300 feet south of Alderton Lane ("Property" or "Subject Property"), in the Aspen Hill master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 2 one-family detached residential lots.
- 2) The proposed development must comply with the conditions of the preliminary forest conservation plan. The Applicant must satisfy these conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits. Conditions are:
 - a. Staff approval of final forest conservation plan based on consistency with the preliminary forest conservation plan prior to any clearing, grading or demolition on the site.
 - b. Final forest conservation plan must include a detailed tree protection plan to identify individual trees that will be protected or removed on the subject property as part of the construction of a new house and driveway on proposed Lot 23. The tree protection plan must include measures to protect all trees on the site that are identified to be preserved and all offsite trees, and must include a certified arborist's recommendations for tree protection measures.
 - c. The total afforestation requirement must be met using an offsite option (forest planting or preservation offsite, or purchase of credits at an approved forest conservation bank). The specific option selected will be reviewed and approved as part of the final forest conservation plan.
- 3) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated March 11, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 4) The Applicant must construct an 8-foot wide shared-use path (SP-40) off-set two feet from the property line along the property frontage of Alderton Road and connect it to the existing sidewalk that currently terminates at the northwest corner of the property.

- 5) The Applicant must comply with the conditions of the MCDOT letter dated July 6, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 6) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 7) The Applicant must construct a 5-foot-wide sidewalk along the property frontage on Alderton Road.
- 8) 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.
- 9) Other necessary easements must be shown on the record plat.

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 Aspen Hill Master Plan makes no specific recommendations regarding this Property or adjacent properties. The Master Plan only reconfirms the existing R-200 zoning for the area. The Planning Board finds this preliminary plan of subdivision, therefore, substantially conforms to the Master Plan in that it proposes residential development under the R-200 standards. The Planning Board also finds the proposed plan conforms to the current development pattern in the area in that it proposes 2 lots with a perpendicular relationship to the street and a compatible relationship to abutting properties.

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

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. In addition, the application is not subject to Policy Area Mobility Review because the proposed development generates fewer than 3 new peak-hour trips within the weekday morning and evening peak periods. The existing right-of-way for Alderton Road is adequate and no additional dedication is necessary. A sidewalk does not currently exist along the Subject Property's frontage and a shared use path, 8 feet in width, is required to be constructed by

this applicant along the frontage of the 2 proposed lots to connect to the sidewalk north of the site. This shared use path is identified as part of a limited master plan amendment for the Inter County Connector, which was reviewed and approved by the Planning Board on September 18, 2008. The Planning Board finds vehicular and pedestrian access for the subdivision will be safe and adequate with the required improvements.

Other Public Facilities and Services

The Planning Board finds 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 no facilities payment is 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.

- 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 Planning Board finds the application meets all applicable sections, including the requirements for resubdivision. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

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

Afforestation requirements for the site total 0.17 acres. Since the proposed lots are small and there are no environmentally-sensitive areas on the site, the Planning Board supports allowing the planting requirements to be met offsite through planting, retaining forest at an offsite location, or purchasing of credits at an approved forest conservation bank. Offsite trees and forest adjacent to the proposed lots are proposed to be protected during construction and retained. One tree on the site, a 10-inch caliper tulip poplar, is proposed to be removed. There will be land disturbing activities near the forest edge along the northern property line in order to remove the large amount of asphalt and concrete paving and the large shed. The preliminary forest conservation plan includes a certified arborist's recommendations for tree save measures during demolition only, in order to protect trees on the adjoining MNCPPC park property as well as some of

the onsite trees. As part of the final forest conservation plan, Environmental Planning Staff has required a certified arborist to identify specific tree save measures to be used during the construction of a new house and driveway on proposed Lot 23 to once again protect offsite trees and some of the onsite trees. The Planning Board finds the application satisfies the applicable requirements of the Forest Conservation Law.

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 for the project on March 11, 2009. The concept consists of on-site water quality control and on-site recharge via nonstructural methods. 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.

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: Lot sizes in the Neighborhood range from 20,156 square feet to 59,982 square feet. Proposed lot 22 is 25,099 square feet and proposed lot 23 is 23,147 square feet, which makes them larger than 3 lots in the Neighborhood and smaller than 4 lots in the Neighborhood. The Planning Board finds the proposed lot sizes are in character with the size of existing lots in the Neighborhood.

Width: Lot widths measured at the front building line in the 7 lot Neighborhood range from 101 feet to 204 feet. Proposed lot 22 has 131 feet of width and proposed lot 23 is 149 feet wide. The Planning Board finds the proposed lots will be in character with existing lots in the Neighborhood with respect to width.

Frontage: Lot frontages in the Neighborhood range from 101 feet to 191 feet. Proposed lot 22 will have 130 feet of frontage while proposed lot 23 will have 209 feet of frontage. Resubdivision of the existing lot creates new lots that are closer in conformance with existing lots in the Neighborhood. While lot 23 will have the largest frontage in the Neighborhood, this is unavoidable given the existing property shape. In Staff's opinion, the extra frontage of Lot 23 does not prevent it from being in character with other lots because the area is not usable for a structure given the setback limitations on this rather irregular and triangularly

shaped lot. As a result, the Planning Board finds the proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Area: Buildable area calculations for the Neighborhood range from 9,270 square feet to 41,095 square feet. Proposed lot 22 has 12,897 square feet of buildable area and proposed lot 23 has 10,568 square feet of buildable area. The Planning Board finds the proposed lots will be of the same character as other lots in the Neighborhood with respect to buildable area.

Alignment: Of the 7 lots in the Neighborhood, 3 lots are perpendicular in terms of alignment, 2 lots have an angular relationship to the street and 2 lots are corner lots. Proposed lot 22 is perpendicular in its alignment to the street. Proposed lot 23 will have a perpendicular alignment as well, but the northern property line also creates an angular relationship to the street due to the unusual shape of the lot. Nevertheless, the Planning Board finds both proposed lots will be of the same character as existing lots with respect to the alignment criterion.

Shape: Four lots in the Neighborhood are irregular and 3 lots are rectangular lots with respect to shape. Proposed lot 22 is rectangular in shape. Proposed lot 22 has an irregular shape which is mostly triangular, unlike other lots in the Neighborhood. But because lot 22 abuts the MNCPPC Northwest Branch Park along its angled northern lot line, there will be no adjacent development and the lot's shape will not be apparent. As viewed from the street, the lot shape will be in character with others in the neighborhood. For these reasons, the Planning Board finds 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 NOV 4 2009 (which is the date that this Resolution is mailed to all parties of record); and

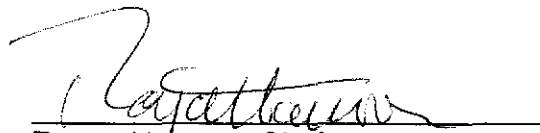
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Commissioner Wells-Harley, with Commissioners Hanson, Alfandre, and Wells-Harley voting in favor of the motion, and with Commissioners Cryor and Presley absent, at its regular meeting held on Thursday, October 15, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board