



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

JUL 13 2010

MCPB No. 10-85
Preliminary Plan No. 120090130
Star Pointe Plaza
Date of Hearing: June 17, 2010

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 December 10, 2008, Sandy Spring Road, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.54 acres of land in the I-1 and Burtonsville Employment Overlay zones, located on Sandy Spring Road, approximately 100 feet west of Star Pointe Lane ("Property" or "Subject Property"), in the Fairland Master Plan area ("Master Plan"); and

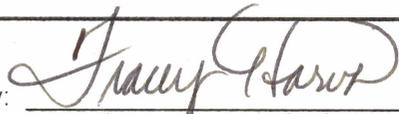
WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090130, Star Pointe Plaza ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 4, 2010, 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 June 17, 2010, 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

WHEREAS, on June 17, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by

Approved as to
Legal Sufficiency: 

Commissioner Alfandre; with a vote of 4-0, Commissioners Alfandre, Dreyfuss, Presley, and Wells-Harley voting in favor with one position being vacant.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120090130 to create one lot on 1.54 acres of land in the I-1 and Burtonsville Employment Area Overlay zones, located on Sandy Spring Road, approximately 100 feet west of Star Pointe Lane ("Property" or "Subject Property"), in the Fairland Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one lot for 3,100 square feet of retail use, 3,260 square feet of restaurant use, and 16,808 square feet of general office use.
- 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, to satisfy the Policy Area Mobility Review (PAMR) requirements of the APF test, must mitigate 36 weekday peak-hour trips by providing for the following measures prior to the release of the first building permit for the subject development:
 - a. Three real-time transit information signs at the Briggs Chaney Road Park and Ride Lot or at any other location within the Fairland/White Oak Policy Area that is approved by the Montgomery County Department of Transportation (MCDOT) (to mitigate 30 weekday peak-hour trips).
 - b. 1,200 feet of off-site sidewalk or shared-use path at location(s) approved by MCDOT or payment of \$66,000 to MCDOT (to mitigate 6 weekday peak-hour trips).
- 4) The Applicant must participate on a pro-rata share basis in the funding and construction of future Dino Drive as a participant in the Dino Drive Road Club per the terms of the June 15, 2000, New Dino Drive Road Participation Agreement as applicable to the Subject Property. If applicable, the Applicant must also participate on a pro-rata share basis in any subsequent road club agreements to fund and construct the un-built sections of Dino Drive. This requirement must be noted on the record plat.
- 5) The Applicant, in coordination with Burtonsville Land LLLP (a.k.a. EZ Storage/Siena Corporation – Burtonsville Industrial Park; Preliminary Plan No. 120070510), must construct a site access driveway from Dino Drive in the event that the Maryland State Highway Administration (MDSHA) closes site access to the existing service road accessing Sandy Spring Road. At that time, the Applicant must also close the proposed temporary driveway to MD 198 via Star Point Drive and the service road and relocate the site access to the Dino Drive driveway.

- 6) The Applicant must satisfy MCDPS requirements prior to recordation of the plat to ensure the construction of offsite sidewalks near the Property frontage on Sandy Spring Road (MD 198) as shown on the Preliminary Plan.
- 7) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated May 24, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The Applicant must comply with the conditions of the MCDOT letter dated January 20, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 9) The Applicant must satisfy provisions for access and improvements as required by MCDOT or MDSHA prior to issuance of access permits.
- 10) No clearing, grading or recording of plats prior to certified site plan approval.
- 11) Final approval of the number and location of the building on-site parking, site circulation, and sidewalks will be determined at site plan.
- 12) 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 during the site plan process. 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."
- 13) The record plat must show 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 Fairland Master Plan identifies an area that includes the Subject Property as Area 19, in the Burtonsville Industrial Area. One of the stated goals for the Burtonsville Industrial area is to develop a diversity of uses to serve and support the businesses, employees, and residents of the area. The Preliminary Plan is in substantial conformance with the Master Plan in that it proposes a

mixed-use building providing office-based employment and service retail and a restaurant that will meet the needs of area employees. In addition, the Preliminary Plan proposes a site that can be oriented towards the future extension of Dino Drive, as recommended by the Master Plan. The site is designed so that access can be provided from Dino Drive after it is extended.

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

Roads and Transportation Facilities

Access is proposed via a driveway from an existing service road in the Sandy Spring Road (MD 198) right-of-way. An additional driveway is proposed at the southern tip of the Property to access the site from a future extension of Dino Drive. This additional driveway is not proposed to be constructed with the project but rather would be constructed in the future when the extension of Dino Drive is constructed. This approval includes a condition that requires construction of the driveway and closure of the proposed driveway to MD 198 if the Maryland State Highway Administration (MDSHA) closes site access to the existing service drive after the completed Dino Drive is opened to public traffic. This driveway will be provided in coordination with anticipated future development on an adjacent property, and will traverse a portion of the adjacent property. Pedestrian access will be provided by sidewalks within the right-of-way that contain Sandy Spring Road and the service road. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

A road club agreement exists between several area property owners for construction of Dino Drive. One segment of the street was constructed in 2004 pursuant to approval of an earlier development project (Burtonsville Self Storage). Approval of the Preliminary Plan subjects the Applicant to the terms of the road club agreement, including payment of a pro-rata share of road construction costs.

A traffic study dated March 25, 2010, was submitted for the Preliminary Plan for adequate public facilities (APF) review purposes because the development proposed on the Subject Property was estimated to generate 30 or more total weekday peak-hour trips during the typical morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

The traffic study, using *Institute of Transportation Engineers (ITE) Trip Generation (8th Edition)* trip generation rates for sit-down restaurants and *M-NCPPC Local Area Transportation Review (LATR)/Policy Area Mobility Review*

(PAMR) Guidelines trip generation rates for office and retail uses, estimated that the proposed development will generate 35 weekday peak-hour trips during the morning peak period and 87 weekday peak-hour trips during the evening peak period. After accounting for pass-by trips, the proposed development will generate 33 new peak-hour trips during the morning peak period and 79 new peak-hour trips during the evening peak period.

Local Area Transportation Review

As shown in the traffic study, the capacity analysis demonstrates that under Total Traffic (i.e., existing, background, and proposed site development combined) Conditions, critical lane volume (CLV) at the study intersections would be below the applicable congestion standard for the Fairland/White Oak Policy Area (1,475 CLV). The Preliminary Plan, therefore, satisfies the LATR requirements of the APF test.

Policy Area Mobility Review

To satisfy the Policy Area Mobility Review (PAMR) requirements of the APF test, the Fairland/White Oak Policy Area requires mitigation of 45 percent of new peak-hour trips generated by a development.

The traffic study for the proposed development shows that the development will generate 33 new peak-hour trips during the weekday morning peak period and 79 new peak-hour trips during the weekday evening peak period. With the PAMR requirement to mitigate 45% of the new trips, the mitigation requirement for the development is 15 peak-hour trips during the morning peak period and 36 peak-hour trips during the evening peak period.

The Applicant is proposing to mitigate 36 peak-hour trips by providing the following measures:

- a. Three real-time transit information signs at the Briggs Chaney Road Park and Ride Lot or at any other location within the Fairland/White Oak Policy Area that is approved by the Montgomery County Department of Transportation (MCDOT) (to mitigate 30 weekday peak-hour trips), and
- b. 1,200 feet of off-site sidewalk or shared-use path at location(s) approved by MCDOT or \$66,000 to MCDOT (to mitigate 6 weekday peak-hour trips).

With the above measures, the Preliminary Plan satisfies the PAMR requirements of the APF test.

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. 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. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the I-1 and Burtonsville Employment Area Overlay zones as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in those zones. 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 Preliminary Plan is subject to the County Forest Conservation Law (Chapter 22A of the Montgomery County Code). There is a 0.25-acre afforestation requirement for the project. The Applicant proposes to meet the afforestation requirement with the planting of native landscape trees in the proposed parking lot. Section 22A-12(d)(2) allows afforestation to be met by the use of tree cover under certain conditions:

Afforestation should be accomplished by the planting of forest cover. However, if the Applicant demonstrates to the satisfaction of the Planning Board or Planning Director, as the case may be, that afforestation using forest cover is inappropriate for a site because of its location in an urban setting, redevelopment context, high-density residential, commercial, industrial, planned unit

development, or institutional area (as defined in Section 22A-3), or similar reason, afforestation requirements may be satisfied by tree cover.

The use of tree cover to meet the afforestation requirement for this project is acceptable and is consistent with the circumstances identified in Section 22A-12(d)(2). The Applicant proposes the construction of a commercial building with surface parking in an industrial zone. In addition, there is no environmentally-sensitive area on the site that could be planted.

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 Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved the stormwater management concept on May 24, 2010. The stormwater management concept consists of the use of environmental site design (ESD) credits to the extent practicable. The ESD elements include green roof, dry wells, and pervious paving. Because the ESD credits do not provide for the entire target treatment volume, a structural sand filter is proposed to provide treatment for the remainder of the required amount.

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 Planning Board in this matter, and the date of this Resolution is JUL 13 2011 (which is the date that this Resolution is mailed to all parties of record); and

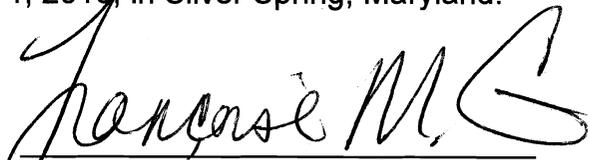
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Presley, seconded by Commissioner Wells-Harley, with Commissioners Wells-Harley, Alfandre, and Presley voting in favor of the motion, and with Chair Carrier abstaining and Commissioner Dreyfuss absent, at its regular meeting held on Thursday, July 1, 2010, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board