



FEB 10 2009

MCPB No. 09-14
Preliminary Plan No. 120080380
Finlandia
Date of Hearing: January 22, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

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 May 30, 2008, Neal H. King ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 10.008 acres of land located on the south side of Hanson Road, approximately 700 feet northwest of Hilton Road ("Property" or "Subject Property"), in the Damascus master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080380, Finlandia ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated January 9, 2009², 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 Planning Board staff ("Staff") and the staff of other governmental agencies, on January 22, 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

WHEREAS, on January 22, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

² Staff's memorandum to the Planning Board contained a typo with the issue date incorrectly identified as January 9, 2008.

Approved as to
Legal Sufficiency:

Christina Sorrento 1/26/09

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Commissioner Robinson; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120080380 to create 2 lots on 10.008 acres of land located on the south side of Hanson Road, approximately 700 feet northwest of Hilton Road ("Property" or "Subject Property"), in the Damascus master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to two lots for two one-family detached dwelling units.
- 2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan prior to recording of a plat or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit, as applicable.
- 3) The record plat(s) must reflect a Category I Conservation Easement over the entire stream valley buffer and the 5.18 acres of retained forest.
- 4) The Applicant must comply with the conditions of the MCDPS stormwater management concept approval dated June 4, 2008. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) The Applicant must comply with the conditions of the MCDPS, Well and Septic Section approval dated October 24, 2008. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated July 15, 2008. These conditions may be amended by MCDOT, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat.
- 8) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.
- 9) The record plat must show the necessary easements.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, 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 Damascus Master Plan supports the retention and reconfirmation of existing zoning for all developed, underdeveloped, and undeveloped land in the Master Plan area, except for those sites recommended for change in the Plan. The Plan does not specifically identify the Subject Property, and therefore suggests that RE-2 zoning be maintained and is appropriate for the site. The Application has been reviewed by jurisdictional agencies, and it has been determined that the proposed use will not adversely impact environmental, land use and zoning, transportation, or community facilities as identified by the Plan. Therefore, the Board finds the Application is in substantial conformance with the Damascus Master Plan in that it is consistent with residential development in the RE-2 zone.

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 more than 30 additional vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation or Policy Area Mobility Reviews. Hanson Road is a secondary street, requiring 60 feet of right-of-way. Sixty feet of right-of-way currently exists, therefore, additional dedication is not required. Sidewalks are not required for lots in the RE-2 zone and no sidewalk currently exists on either side of Hanson Road. Therefore, the Board finds the proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed private improvements.

Other Public Facilities and Services

The Board finds other public facilities and services are available and will be adequate to serve the proposed dwelling unit. The Application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the Property. The Subject Property is not within a school moratorium area and is not subject to a School Facilities Payment.

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

The lots have been reviewed for compliance with 50-29(a) of the Subdivision Regulations. The Planning Board finds that the size, shape, width, and area of the lots are appropriate for their location within the subdivision.

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

The Application was reviewed for compliance with Chapter 22A of the Montgomery County Code, the Forest Conservation law. There are approximately 7.66 acres of forest on the Subject Property. The preliminary forest conservation plan proposes 5.18 acres of forest retention and 2.48 acres of forest clearing. The forest retention area is located on the southwest portion of the proposed lots. The forest retention area will be protected through a Category I Forest Conservation Easement, which also protects the stream valley buffer, the areas of steep slopes, and the small area of erodible soils located onsite. The amount of retained forest more than compensates for the proposed forest clearing, thus no reforestation planting is required for this plan. The Application satisfies the 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 approval dated June 4, 2008, meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on June 4, 2008. The stormwater management concept includes on-site water quality control and recharge via the use of nonstructural practices. Channel protection is not required because the one-year post-development peak discharge is less than two 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.*

Frontage:

In the designated Neighborhood, lot frontage ranges from 25 feet to 375 feet. The proposed Lot 1 has 401 feet of frontage, and the proposed Lot 2 has 159 feet of frontage on Hanson Road. The proposed Lot 2 falls within the midrange of the Neighborhood. The proposed Lot 1, although still at the high end of the range regarding frontage, reduces the current frontage of the Subject Property (562 feet), which makes the proposed frontage of Lot 1 more comparable to the surrounding Neighborhood. Therefore, the proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Alignment:

In terms of alignment, the road network is curvilinear and the lots in the Neighborhood are a mixture of perpendicular, radial, and flag lots in relationship to Hanson Road. Three of the eight lots in the Neighborhood are perpendicular, three are flag lots, and two are radial. The proposed lots are perpendicular in alignment. The proposed lots are of the same character as existing lots with respect to the alignment criterion.

Size:

Lot sizes in the Neighborhood range from 2.5 acres to 10.0 acres. Three of the existing lots in the Neighborhood are 3.2 acres or smaller, four of the existing lots in the Neighborhood are 6.2 acres or larger, and one lot is 4.5 acres in size. The proposed lots are 3.1 and 6.9 acres in size. The size of the proposed lots is in character with the existing lots in the neighborhood.

Shape:

With respect to shape, five existing lots in the Neighborhood are irregular, two lots are flag, and one lot is pie. The proposed lots are irregular much like the majority of existing lots in the Neighborhood. The shape of the proposed lots will be in character with shapes of the existing lots.

Width:

Lot widths in the Neighborhood range from 125 feet to 815 feet. Excluding the lot that is 815 feet wide, there are two lots less than 200 feet wide, and five lots between 240 feet and 340 feet wide. The proposed lots have lot widths of 201 feet and 334 feet. The proposed lots will be in character with existing lots in the neighborhood with respect to width.

Area:

When evaluating buildable area, existing lots in the Neighborhood range from 0.65 acres to 6.34 acres of buildable area. Four of the existing lots have a buildable area of 1.9 acres or less, while three of the existing lots have a buildable area of 4.4 acres to over 6 acres. The proposed lots will be comfortably near the middle of this range at 2.09 acres and 3.82 acres. 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.

The Planning Board finds that the Application complies with all seven resubdivision criteria as identified in Section 50-29(b)(2) of the Montgomery County Subdivision Regulations.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 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 Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is FEB 10 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 Alfandre, seconded by Commissioner Presley, with Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley present and voting in favor at its regular meeting held on Thursday, February 5, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board