



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

MCPB No. 09-24
Preliminary Plan No. 120070220
Helmsdale Road
Date of Hearing: March 5, 2009

MAR 26 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 March 5, 2009, Ayman Farouqi ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 1.84 acres of land located on the west side of Helmsdale Road at the intersection of Helmsdale Road and Selkirk Drive ("Property" or "Subject Property"), in the Bethesda-Chevy Chase master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070220, Helmsdale Road ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 20, 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 March 5, 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 March 5, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Robinson; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Robinson voting in favor.

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.

APPROVED AS TO LEGAL SUFFICIENCY

DK by CS

MONTGOMERY COUNTY LEGAL DEPARTMENT

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120070220 to create 1 lot on 1.84 acres of land located on the west side of Helmsdale Road at the intersection of Helmsdale Road and Selkirk Drive ("Property" or "Subject Property"), in the Bethesda-Chevy Chase master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 1 lot for 1 existing one-family detached residential dwelling unit.
- 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 install boundary posts to permanently delineate the forest conservation easement areas and construct a split rail fence, or approved equivalent, at the back and sides of the proposed garage (along the easement boundary) to further delineate and protect the conservation easements from future homeowner encroachment.
- 5) The timing for planting installation within areas affected by stream restoration work must be coordinated with the Montgomery County Department of Environmental Protection (MCDEP).
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated November 27, 2006. These conditions may be amended by MCDOT, provided 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(s).
- 8) The record plat must reflect dedication of approximately 15,682 square feet to MNCPPC for park purposes as shown on the Preliminary Plan.
- 9) 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.
- 10) 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, 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 Subject Property is located within the Approved and Adopted Bethesda-Chevy Chase Master Plan area. The Master Plan does not specifically identify this Property but does give general guidance and recommendations regarding zoning and land use. The Master Plan recommends that this area maintain the R-200 residential zoning as adopted. The existing residential pattern in the area is characterized by rectangular lots on primarily connected streets with access from River Road. The lots are oriented to minimally impact existing natural areas. The Preliminary Plan includes a lot with rectangular alignment to the street and protects environmentally sensitive features on the site through conservation easements and parkland dedication. The Planning Board finds the Preliminary Plan substantially conforms to the Master Plan for this area.

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

Roads and Transportation Facilities

There are no new vehicle trips generated by this lot during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation Review. Policy Area Mobility Review is not required. Additional right-of-way dedication for Helmsdale Road along the Property frontage is also not required.

Sidewalks are required for development in the R-200 zone, but because they do not currently exist along Helmsdale Road the requirement may be waived and a fee-in-lieu paid instead at the discretion of MCDOT. A private driveway will continue to serve the lot and provide for adequate guest parking and pedestrians can safely use the road. The Planning Board finds that the proposed vehicle and pedestrian access for the subdivision will be safe and adequate.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the existing dwelling unit. The Subject Property is served by existing public water and sewer house connections. Gas, electric and telecommunications services are also available to serve the Property. Police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. The Application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS) who have determined that the Property has adequate access for emergency vehicles. Although the local elementary school is operating between 105-120% of capacity, a School Facilities Payment is not required because the house is existing.

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 applications. The Planning Board finds 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.*

Environmental Guidelines

The Applicant submitted a Natural Resources Inventory/ Forest Stand Delineation (NRI/FSD) and received approval of the NRI/FSD on August 8, 2006. The NRI/FSD was recertified on February 21, 2008. There is a perennial stream with a mostly forested buffer located on the Property. The site is generally flat although moderately sloping towards the stream. Some steep benches occur along the floodplain boundary and at the eroded stream banks. The forest is classified as high priority for retention. The site is not within a Special Protection Area or Primary Management Area.

In total, there are 1.04 acres of environmental buffers on the Subject Property comprised entirely of stream valley buffer. The existing development encroaches into parts of the buffer and the Preliminary Plan includes further encroachments to incorporate a new garage. Furthermore, a recent addition on the rear of the existing house has been constructed within the stream valley buffer since the time of the original NRI/FSD approval. The Preliminary Plan proposes to compensate for the proposed and recently created onsite encroachments by providing an on-site Category I conservation easement outside the Stream Valley Buffer at a 2:1 ratio. With this compensation, the Planning Board finds the Preliminary Plan meets all applicable requirements for protection of environmentally sensitive areas.

Forest Conservation

This Property is subject to Chapter 22A of the Montgomery County Forest Conservation Law and a Forest Conservation Plan was submitted for approval. The net tract area for the project contains 1.84 acres, which includes 1.04 acres of existing forest. The Forest Conservation Plan proposes the retention of 1.01 acres of forest and the removal of 0.03 acres. The Forest Conservation Plan accounts for previous understory clearing by providing restoration plantings and an associated invasive species management plan and, afterward, maintaining

previously disturbed areas as natural forest. With these measures, the Planning Board finds the Forest Conservation Plan meets all applicable requirements of the Montgomery County Forest Conservation Laws.

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.*

In correspondence dated May 7, 2008, the MCDPS Stormwater Management Section confirmed that a stormwater management concept is not required for the proposed subdivision.

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.*

In performing the analysis, the resubdivision criteria were applied to the resubdivision Neighborhood selected by the Applicant and agreed to by Staff and the Planning Board. The proposed lot will have the largest frontage and width in the delineated Neighborhood and the second largest size. The Planning Board finds the lot will still be in character with other lots because so much of its area will remain undevelopable. In its current configuration, the Property is a lot, and an adjacent unrecorded parcel that is largely undevelopable because of environmental constraints. Combining these two pieces of land together will not change the existing character at all because the developable part of the resulting lot will remain the same. For these reasons, the Planning Board finds the proposed lot is of the same character with respect to the resubdivision criteria as other lots within the defined Neighborhood and the resubdivision complies with the criteria of Section 50-29(b)(2).

Size: The lots in the Neighborhood range in size from 20,000 square feet to 112,820 square feet. The largest lot is a recorded parcel that contains a religious institution. Taking this into account, the proposed lot will be the largest lot for residential use in the neighborhood at 64,442 square feet, followed by an existing lot of 49,980 square feet. Nonetheless, Staff finds the size of the proposed lot will not be out of character with the existing lots in the Neighborhood because most of the lot will be unbuildable due to environmental constraints. The actual developable area of the proposed lot is only slightly larger than the 28,811 square foot existing lot that is being resubdivided. From the Neighborhood perspective, the character of the lot and its existing residence will not change by

adding the unbuildable area to it. For this reason, the Planning Board finds the proposed lot is in character with the size of existing lots in the Neighborhood with respect to the size criterion.

Width: Lot widths at the building restriction line for lots in the Neighborhood range from 100 feet to 420 feet. The proposed lot will have the largest width in the Neighborhood at 455 feet, but because more than half of it remains undevelopable, the Planning Board finds the proposed lot will be in character with existing lots in the Neighborhood with respect to width.

Frontage: In the 20 lot Neighborhood, lot frontages range from 80 feet to 420.24 feet. While the proposed lot will have 470 feet of frontage, only 225 feet of frontage corresponds to the developable area and will continue to be perceived as frontage from the road. This 225 foot frontage is in the Neighborhood range and the Planning Board finds the proposed lot will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Area: Buildable area calculations for lots in the Neighborhood range from 6,749 square feet to 74,982 square feet (for the existing religious institution). After the religious institution, the largest buildable area in the Neighborhood is 25,626 square feet. The proposed lot will have a buildable area of 12,624 square feet after accounting for all the easements on the Property that prohibit construction. The Planning Board finds the proposed lot will be of the same character as other lots in the Neighborhood with respect to buildable area.

Alignment: Six lots in the Neighborhood are corner lots and the remaining 16 lots are perpendicular in terms of alignment. The proposed lot has a perpendicular alignment to Helmsdale Road. The Planning Board finds the proposed lot is of the same character as existing lots in the Neighborhood with respect to the alignment criterion.

Shape: All lots in the Neighborhood are rectangularly-shaped and the proposed lot will be rectangular in shape as well. The Planning Board finds the shape of the proposed lot will be in character with shapes of the existing lots.

Suitability for Residential Use: The Planning Board finds 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 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

