



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

APR 27 2009

MCPB No. 09-34
Preliminary Plan No. 120070530
Jackson's Acres
Date of Hearing: March 19, 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 January 8, 2007, Scott Jackson ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 40,511 square feet of land located on the south side of Smith Village Road, 1,000 feet east of Randolph Road ("Property" or "Subject Property"), in the White Oak Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070530, Jackson's Acres ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated March 6, 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 19, 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

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:

8787 Georgia Avenue, Suite 100, Montgomery, MD 20886-1010 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, on March 19, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Cryor; 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. 120070530 to create two lots on 40,511 square feet of land located on the south side of Smith Village Road, 1,000 feet east of Randolph Road ("Property" or "Subject Property"), in the White Oak 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 submit a detailed final Tree Save Plan with specific tree preservation measures for Staff review and approval, prior to release of any sediment and erosion control permit. The Tree Save Plan must be prepared and signed by an ISA-certified arborist.
- 3) The Applicant must comply with the conditions of approval for the Final Tree Save Plan. The Applicant must satisfy all conditions prior to any clearing, grading, or demolition on the site.
- 4) The Applicant must dedicate and the record plat must show dedication of 60 feet of right-of-way, as measured from the opposite right-of-way line, along the Property frontage for Smith Village Road.
- 5) The Applicant must construct a four-foot-wide sidewalk along the Property frontage on Smith Village Road, unless construction is waived by the Montgomery County Department of Permitting Services (MCDPS).
- 6) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 7) The record plat must reflect denial of access on the Morningside Lane frontage.
- 8) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated February 2, 2007. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 9) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated December 10, 2008. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 10) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 11) The record plat must show necessary easements.

- 12) 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.

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 White Oak Master Plan does not specifically address the Subject Property. The Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. Thus, in the case of the Subject Property, the Master Plan calls for retention of the existing R-90 zoning. The proposed subdivision substantially conforms with the recommendations adopted in the Master Plan in that it proposes one-family residential development consistent with surrounding development patterns and the current zoning designation. The proposed lots will be similar to surrounding lots with respect to dimensions, orientation, and shape, and the proposed residences will have a similar relationship to the public street and surrounding residences as existing residences in the area. The proposed subdivision will not alter the existing pattern of development or land use, consistent with the Master Plan recommendation to maintain the existing land use.

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

Roads and Transportation Facilities

The proposed subdivision does 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 proposed subdivision does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the Application is also not subject to Policy Area Mobility Review.

Access to the proposed lots will be provided by a shared driveway from Smith Village Road. Although proposed Lot 2 also has frontage on Morningside Lane, no driveway access is proposed from Morningside Lane in conformance with a condition in the Montgomery County Department of Transportation

(MCDOT) letter dated December 10, 2008. Sidewalks do not exist on Smith Village Road, but the low traffic volume on this street allows safe pedestrian use of the roadway. Chapter 49 of the Montgomery County Code requires the installation of a sidewalk along the Property frontage, but the Applicant may request that MCDPS waive construction. The Planning Board supports such a waiver. Proposed vehicle and pedestrian access for the site will be safe and adequate.

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 which has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses 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, gas, and telecommunications services are also available to serve the 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 subdivision will create two lots measuring 16,500 square feet and 20,900 square feet, respectively. Proposed Lot One will front directly on Smith Village Road, and the other will be a pipestem lot located behind the first lot. The pipestem lot (proposed Lot 2) will also have frontage on the dead end of Morningside Lane. This configuration was chosen because MCDOT has prohibited vehicular access to Morningside Lane and the pipestem provides frontage on Smith Village Road, the street that is providing access. Two additional subdivisions with a similar pipestem layout are located in the vicinity of the Subject Property. One additional subdivision exists with a lot-behind-lot layout, but it does not include a pipestem because frontage for the rear lot exists solely on the end of a street stub at the rear of the property (similarly to the Subject Property). The proposed subdivision is similar in layout to the existing nearby pipestem subdivisions. The proposed lots are sufficiently large so that an appropriate separation can be maintained between the two proposed dwellings.

The lots were reviewed for compliance with the dimensional requirements for the R-90 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 Montgomery County agencies, all of whom have recommended approval of the plan.

The Planning Board finds, therefore, that 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.*

There is no forest on the site, and this Application is exempt from submitting a Forest Conservation Plan. However, a Tree Save Plan is required for the Property.

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 Plan on February 2, 2007. The Stormwater Management Concept Plan includes water quality control and recharge via nonstructural methods. Channel protection is not required because the one-year post-development peak discharge is less than 2 cubic feet per second.

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 Land Records of Montgomery County, Maryland or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is APR 27 2009 (which is the date that this Resolution is mailed to all parties of record); and

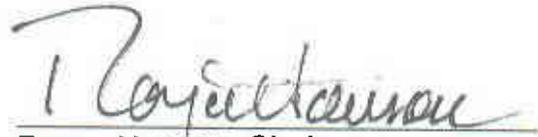
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Presley, seconded by Commissioner Robinson, with Commissioners Hanson, Robinson, and Presley voting in favor of the motion, and with Commissioners Alfandre and Cryor absent, at its regular meeting held on Thursday, April 23, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board