



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

MCPB No. 09-50
Preliminary Plan No. 12004109A
Burtonsville Shopping Center
Date of Hearing: July 10, 2008

JUN 12 2009

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 June 3, 2008, BMC Property Group ("Applicant"), filed an application to revise the previous conditions of approval to a previously approved preliminary plan located on 27.15 acres of land in the northwest quadrant of the intersection of Columbia Pike (US 29) and Spencerville Road (MD 198) ("Property" or "Subject Property"), in the Fairland Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12004109A, Burtonsville Shopping Center ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated June 25, 2008, 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 staffs of other governmental agencies, on July 10, 2008, 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 July 10, 2008, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Cryor; with a vote of 5-0, Commissioners Alfandre,

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.

[Signature]
 Approved for legal sufficiency
 M-NCPPO
 1377 Georgia Avenue, Suite 200, Gaithersburg, Maryland 20910

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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 Amendment No. 12004109A to revise Condition #6 of the corrected opinion dated March 21, 2006, as follows:

- 1) Previous condition #6, shall be amended as follows:
 - 6) Construct an eight-foot-wide shared-use path and an eight-foot-wide tree panel on US 29A (Burtonsville Boulevard) along the entire Property frontage. ~~Extend this shared use path and tree panel further north from the property line to the PEPCO power line right-of-way (or to the Patuxent Trail [PB-41]).~~ The shared-use path shall be offset two feet from the property line.
- 2) All other previous conditions of approval as contained in the Planning Board corrected Opinion dated March 21, 2006 remain in full force and effect.

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 revision does not substantially change the plan. As determined by the Planning Board at the initial hearing for this project, the plan is in conformance with the land use recommendations of the Fairland Master Plan.

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

By virtue of a thorough review and recommendations of approval from all agencies including the Montgomery County Department of Public Works and Transportation, the Montgomery County Department of Permitting Services, the Maryland State Highway Administration and the Montgomery County Department of Fire and Rescue Services, this plan will be adequately served by public facilities.

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

The configuration of the lots was not changed as part of this plan revision. Lot shape, size, width and orientation remain in compliance with Chapter 50.

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

At the initial hearing, the plan was reviewed for compliance with Chapter 22A off the Montgomery County Code and found to comply with all requirements of that Chapter by the Planning Board. The revision required no changes to the forest conservation plan.

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 reviewed and approved a stormwater management concept for the entire project at the initial review. The concept was not changed as part of this revision and remains valid.

BE IT FURTHER RESOLVED, that the date of this Resolution is JULY 12 2008 (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).

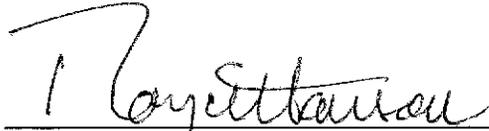
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CERTIFICATION

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-

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National Capital Park and Planning Commission on motion of Commissioner Cryor, seconded by Commissioner Presley, with Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley voting in favor of the motion, at its regular meeting held on Thursday, May 21, 2009, in Silver Spring, Maryland.

A handwritten signature in cursive script, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board