



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

MCPB No. 09-94
Preliminary Plan No. 120090250
Manor Park - Resubdivision of Lot 199
Date of Hearing: July 30, 2009

Aug 28 2009

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 July 30, 2009, Thomas Maddox and David McKee ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 1.06 acres of land located on the west side of Old Georgia Road, 325 feet southwest of Montpelier Road ("Property" or "Subject Property"), in the Aspen Hill master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090250, Manor Park - Resubdivision of Lot 199 ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 1, 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 July 30, 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 July 30, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Cryor; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson and Wells-Harley voting in favor, Commissioner Presley being absent.

Approved as to
 Legal Sufficiency:

Christina Sonent 8/13/09
 M-NCPPC 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. 120090250 to create 2 lots on 1.06 acres of land located on the west side of Old Georgia Road, 325 feet southwest of Montpelier Road ("Property" or "Subject Property"), in the Aspen Hill master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 2 residential lots.
- 2) The proposed development must comply with the following conditions of 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:
 - a. Approval of final forest conservation plan consistent with the preliminary forest conservation plan prior to any clearing, grading or demolition on the site.
 - b. Final forest conservation plan must include a detailed tree protection plan to identify individual trees that will be protected or removed on the Subject Property. The tree protection plan must include measures to protect trees that are located offsite on private properties and must include a certified arborist's recommendations for onsite and offsite tree protection measures.
 - c. The afforestation requirement must be met using an offsite option (afforestation offsite or purchase of credits at an approved forest conservation bank). The specific option selected will be reviewed and approved as part of the final forest conservation plan.
- 3) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated March 17, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Applicant must satisfy provisions for access and improvements as required by MDSHA prior to issuance of access permits.
- 5) 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.
- 6) 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 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 Aspen Hill Master Plan makes no specific recommendations regarding this Property or adjacent properties. The Master Plan only reconfirms the existing R-200 zoning for the area. This Preliminary Plan of subdivision contributes to the established nature of the Manor Country Club neighborhood in that it proposes to record 2 lots in conformance with the R-200 zoning standards with a perpendicular relationship to the street and a compatible relationship to abutting properties. The Planning Board finds the Application substantially complies with the Aspen Hill Master Plan.

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 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, Transportation Planning staff has determined the Application is not subject to Policy Area Mobility Review because the proposed development generates fewer than 3 new peak-hour trips within the weekday morning and evening peak periods. The service road on which the Property is located is part of the 250 feet of required right-of-way for Georgia Avenue, a state highway. As delineated on the Preliminary Plan, the existing right-of-way is adequate and no additional dedication is necessary. A sidewalk does not currently exist along the Subject Property's frontage and is not required by MDSHA or identified as part of any future capital improvement projects. Pedestrians safely use the street in this location. The Planning Board finds the proposed vehicular and pedestrian access for the subdivision will be safe and adequate.

Other Public Facilities and Services

The Planning Board finds other public facilities and services are available and will be adequate to serve the proposed dwelling units. The Application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. Area schools are operating at adequate levels; therefore, the Subject Property is not within a school moratorium area and no facilities payment is required. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the lots.

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 Planning Board finds the Application meets all applicable sections, including the requirements for resubdivision as discussed below. 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.*

The Planning Board finds the Preliminary Plan meets all applicable requirements of the Forest Conservation Law. The site is unforested, but afforestation planting is required to meet the requirements of the forest conservation plan. These requirements will be met offsite. Of the 12 large trees on the Subject Property, two are specimen-sized tulip poplars. The preliminary forest conservation plan dated May 29, 2009 proposes to protect some of the large onsite trees and all offsite trees are proposed to be protected from impacts by this development. As part of the final forest conservation plan, a detailed tree protection plan must be submitted for review and approval. The tree protection plan must include protection measures recommended by a certified arborist and provide for protection and preservation of all offsite trees located on private 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 for the project on March 17, 2009. The concept includes on-site water quality control and recharge via rooftop and non-rooftop disconnection credits. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 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:

Lot frontages in the Neighborhood range from 99 feet to 309 feet. The majority of existing lots in the Neighborhood, or 22 of the 38, have 100 feet of street frontage. Proposed lot 1 will have 101 feet of frontage and proposed lot 2 will have 100 feet of frontage along Old Georgia Avenue. The Planning Board finds the proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Alignment:

In the 38 lot Neighborhood, 5 lots are angular in alignment, 5 lots are corner lots and the remaining 28 lots are perpendicular in terms of alignment. Both proposed lots will have a perpendicular alignment to Old Georgia Avenue. The Planning Board finds 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 14,973 square feet to 31,766 square feet. 16 lots in the Neighborhood are less than 20,000 square feet in size because the Neighborhood pre-dates the zone. 14 lots in the Neighborhood range from 20,000 to 24,852 square feet and the remaining 8 lots range from 28,275 square feet to 31,766 square feet in size. Proposed lot 1 is 24,038 square feet and proposed lot 2 is 22,214 square feet. The Planning Board finds the size of the proposed lots is in character with the size of existing lots in the Neighborhood.

Shape:

10 lots in the Neighborhood are irregular in shape and 28 lots are rectangular in shape. The two proposed lots will be rectangular in shape. The Planning Board finds the shapes of the proposed lots will be in character with shapes of the existing lots.

Width:

Lot widths in the Neighborhood range from 100 feet to 175 feet. 22 of the 38 lots, which is a majority of lots in the Neighborhood, have a lot width of 100 feet. Proposed lot 1 will have a lot width of 101 feet while proposed lot 2 will have a lot width of 100 feet. The Planning Board finds the proposed lots will be in character with existing lots in the Neighborhood with respect to width.

Area:

The buildable area of lots in the Neighborhood ranges from 4,093 square feet to 18,249 square feet. Proposed lot 1 will have a buildable area of 12,720 square feet and proposed lot 2 will have a buildable area of 11,402 square feet. The Planning Board finds 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 Planning Board finds the existing and the proposed lots are zoned residential and the land is suitable for residential use.

7. *Issues raised at the public hearing have been appropriately addressed.*

Citizens who submitted written testimony to the Planning Board at the public hearing raised the following issues for the Board's consideration:

- i. removal of trees on the Subject Property as a result of new construction and the need for an appropriate landscape buffer along common property lines
- ii. the size and style of the proposed dwelling unit
- iii. whether or not subdivision is allowed by neighborhood covenants.

With respect to issue i. above, the Planning Board finds the testimony at the Hearing that the Applicant will provide significant screening along the northern and western property lines and include these plantings as part of the tree protection plan addresses the community's concern and is appropriate for the proposed resubdivision.

With respect to issue ii. above, the Planning Board finds the architectural design of the house is not an issue that falls under the Board's subdivision authority.

With respect to issue iii. above, the Planning Board finds any enforcement of such covenants by the Planning Board is also beyond the Board's subdivision authority and would contradict the Board's policy to not intervene in neighborhood covenants.

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

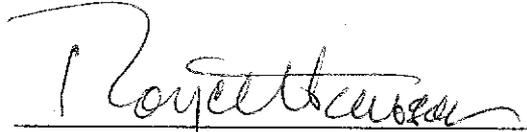
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is (which is the date that this Resolution is mailed to all parties of record); and

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 Wells-Harley, seconded by Commissioner Presley, with Commissioners Hanson, Alfandre, Presley, and Wells-Harley voting in favor of the motion, and with Commissioner Cryor absent, at its regular meeting held on Thursday, September 10, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board