



MAR -9 2010

MCPB No. 10-02
Preliminary Plan No. 120090230
Sandy Spring Parcel B
Date of Hearing: January 14, 2010

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 May 13, 2009, Nichols Development, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 4.71 acres of land in the O-M and Sandy Spring/Ashton Rural Village Overlay zones, located in the southwest quadrant of the intersection of Olney Sandy Spring Road (MD 108) and Meeting House Road ("Property" or "Subject Property"), in the Sandy Spring/Ashton Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090230, Sandy Spring Parcel B ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated January 4, 2010, 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 January 14, 2010, 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 14, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by

Approved as to
 Legal Sufficiency:

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Commissioner Wells-Harley; with a vote of 4-0, Commissioners Alfandre, Hanson, Presley, and Wells-Harley voting in favor, with one seat being vacant.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120090230 to create one lot on 4.71 acres of land in the O-M and Sandy Spring/Ashton Rural Village Overlay zones, located in the southwest quadrant of the intersection of Olney Sandy Spring Road (MD 108) and Meeting House Road ("Property" or "Subject Property"), in the Sandy Spring/Ashton Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one lot for 72,121 square feet of office use, 12,238 square feet of child day care use for a maximum of 196 children, and 1,718 square feet of retail use.
- 2) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 3) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan approved by the Planning Board on November 13, 2008. 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.
- 4) The Applicant must dedicate and the record plat must show dedication of 40 feet of right-of-way, as measured from the centerline, for Olney-Sandy Spring Road (MD 108). The certified Preliminary Plan must accurately show this dedication.
- 5) The Record plat must reference a covenant for future road dedication of 30 feet of right-of-way, as measured from the centerline, along the Property frontage for Meeting House Road. The area of road dedication specified in the covenant must be shown on the certified Preliminary Plan and record plat. The terms of this covenant must be recorded by the Applicant in a separate document, and the liber and folio of the document must be referenced on the plat. The terms must be submitted to MNCPPC Staff for review and approval prior to recordation of the plat. The terms will specify requirements for right-of-way dedication in the event that the historic structure located in the southwest quadrant of the intersection of Olney-Sandy Spring Road (MD 108) and Meeting House Road is removed from the Property.
- 6) Prior to the release of any building permits for the proposed development, the Applicant must construct or participate on a pro-rata basis in providing, with approval from Maryland State Highway Administration (MDSHA), required capacity improvements at the MD 108 intersection with New Hampshire Avenue (MD 650), as noted in the MDSHA letter dated October 20, 2008. The basis of participation on a pro-rata share is the sum of total peak-hour trips generated by the subject development relevant to the particular

improvement over the sum of total peak-hour trips generated by all developments required by the Planning Board to participate in the construction of the particular improvement. The improvements must be consistent with currently unfunded improvements or future MDSHA design for the above intersection and its approaches under design Contract No. MO3175187, and must include:

- a. Widening of the west leg of MD 108 to provide separate eastbound left, through, and right turn lanes, including a center left-turn lane along MD 108 between MD 650 and Porter Road.
- b. Widening of the east leg of MD 108 to provide separate westbound left, through, and right turn lanes.
- c. Lengthening of the northbound MD 650 left and right turn lanes.
- d. Construction of a five-foot-wide sidewalk along the south side of MD 108 (between MD 650 and 150 feet west of Porter Road) and along the east side of MD 650 (along the Ashton Meeting Place and Derrick's Addition to Ashton site frontages).
- e. Construction of an eight-foot-wide shared-use path along the north side of MD 108 (along Derrick's Addition to Ashton site frontage to just west of Ashton Club Way) and along the west side of MD 650 between MD 108 and Crystal Spring Drive.

Determining pro rata share, including whether any other applicant(s) are required to participate, is the sole responsibility of the applicant(s) who completed the improvements. The Planning Board and/or other reviewing agencies will not be the arbiter in determining the cost for the improvements or in recovering the cost on the basis of pro-rata share of the required improvements.

- 7) At the time of filing of the site plan, the Applicant must submit for Staff review:
 - a. An access management plan/stripping plan and a sidewalk detail plan for MD 108 (between Meeting House Road and Norwood Road) and for Meeting House Road (between site driveway and MD 108).
 - b. An on-site vehicle/pedestrian circulation plan considering existing and proposed uses on the Property and the adjacent townhouse community.
- 8) Prior to recordation of the plat, the existing Adequate Public Facilities (APF) agreement for the Property, dated January 12, 1990, must be terminated and all parties released from their rights and obligations thereunder.
- 9) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated October 29, 2008. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 10) The Applicant must comply with the conditions of the MDSHA letter dated October 20, 2008. These conditions may be amended by MDSHA, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 11) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated October 8, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 12) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s) and by MDSA prior to issuance of access permits.
- 13) There shall be no clearing, grading or recording of plats prior to certified site plan approval.
- 14) The record plat must show necessary easements.
- 15) Prior to certification of the Preliminary Plan, all references on the plan to building height in stories must be removed from the plan or changed to building height in feet.
- 16) The certified Preliminary Plan must contain the following note: "The building footprints shown on the Preliminary Plan are illustrative. Final building locations will be determined during the site plan process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 17) Architectural drawings must be submitted as part of the site plan application.
- 18) 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.

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 Sandy Spring/Ashton Master Plan does not make specific recommendations for the Property, but the Master Plan does make a series of recommendations for the Sandy Spring Village Center, in which the Property is located. The recommendations focus on the creation of an overlay zone that would afford added flexibility in development while enabling detailed design review. The overlay zone was created after adoption of the Master Plan. The proposed project uses standards allowed in the overlay zone.

One of the objectives of the Master Plan is to "ensure that the villages of Sandy Spring and Ashton maintain separate and distinct identities." To that end,

the Master Plan makes several recommendations for the Sandy Spring Village Center, including flexible provisions for parking requirements, appropriate building heights, and design review to ensure that new development maintain the small scale envisioned for a village center. It also encourages the use of traditional village design, “active fronts” on new buildings, placement of off-street parking out of view, and use of the Sandy Spring Historic District as source for design. The Preliminary Plan is in substantial conformance with the Master Plan because the proposed building is situated close to the street and is limited by binding elements of the schematic development plan amendment that require that the building not exceed 35,000 square feet in floor area and 30 feet in height. The parking structure is placed behind the proposed building, largely keeping it out of view as recommended by the Master Plan. Detailed site plan review will allow further refinement of the project in the context of the overlay zone and the Master Plan’s development guidelines.

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

Local Area Transportation Review

The submitted traffic study estimates that the 35,000 square-foot of additional building area proposed on the site – comprised of 21,044 square-foot of office, 1,718 square-foot of retail, and a 12,238 square-foot daycare facility – will generate approximately 203 total peak-hour trips during the weekday morning and 187 total peak-hour trips during the weekday evening peak-periods. After discounting for pass-by and diverted trips, additional development proposed on the Property was estimated to generate approximately 86 and 88 net new trips during the morning and evening peak-hours.

As shown in the traffic study, the weekday morning and evening peak-hour capacity analysis indicates that, with a proposed roadway/intersection improvement at the intersection of Olney Sandy Spring Road (MD 108) and New Hampshire Avenue (MD 650), CLV values at the study intersections will be below the applicable policy area congestion standards. The Applicant is proposing to mitigate site-related transportation impacts at the MD 108/MD 650 intersection by participating in a capacity improvement planned for this intersection. The Preliminary Plan, therefore, satisfies the LATR requirements of the APF test.

Policy Area Mobility Review

The Subject Property is located within the Rural East (Patuxent) Policy Area. The policy area, at the time of the filing of the Application, had an “acceptable” condition for PAMR, and the Application, therefore, does not require

any mitigation of new site-generated trips. The Application satisfies the PAMR requirements of the APF test.

Other Public Facilities and Services

Public facilities and services are available and will be safe and 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 who 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 safe and adequate to serve the Property. Electrical 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.*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the C-T zone as specified in the Zoning Ordinance, in compliance with the binding elements of the schematic development plan. The lot 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 county agencies, all of whom have recommended approval of the plan.

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

Approximately 0.75 acres of forest exists in the western portion of the Property. The approved preliminary forest conservation plan (PFCP) indicates the removal of all of the existing 0.75 acres of forest resulting in a planting requirement of 1.46 acres. The approved plan allows for 0.19 acres of the planting requirement to be met through on-site landscaping credits. The plan provides for the remaining 1.27 acres of reforestation requirement to be met via an off-site forest mitigation bank. The location of the 0.19 acre landscaping credit and the off-site bank will be determined at the time of final forest conservation plan approval.

- 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 on October 29, 2008. The stormwater management concept includes on-site channel protection measures via construction of underground pipe storage and on-site water-quality control via installation of filtration cartridges and a green roof. A "Filterra" unit will provide water quality control for an area of 0.16 acres. On-site recharge was not required because the project qualifies as redevelopment.

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

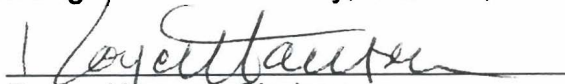
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR - 9 2010 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, with Chairman Hanson, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley, absent at its regular meeting held on Thursday, March 4, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board

HOA 120090230

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