



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

MCPB No. 10-12
Preliminary Plan No. 120080110
Locust Hill Estates
Date of Hearing: February 4, 2010

APR 5 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 February 4, 2010, Mahmoud Amin and Fakhri Behjat-Vaziri ("Applicants"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 0.62 acres of land in the R-60 zone, located on the north side of Broad Brook Drive, 670 feet northwest of Locust Hill Road ("Property" or "Subject Property"), in the Bethesda-Chevy Chase master plan area ("Master Plan"); and

WHEREAS, Applicants' preliminary plan application was designated Preliminary Plan No. 120080110, Locust Hill Estates ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated January 8, 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 February 4, 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 February 4, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Hanson, Presley, and Wells-Harley voting in favor, Commissioner Alfandre being absent, and one seat being vacant.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant

Approved as to
 Legal Sufficiency:

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provisions of Montgomery County Code Chapter 50, the Planning Board APPROVES Preliminary Plan No. 120080110 to create 2 lots on 0.62 acres of land in the R-60 zone, located on the north side of Broad Brook Drive, 670 feet northwest of Locust Hill Road ("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 2 one-family detached residential lots.
- 2) The Applicants must obtain Environmental Planning staff approval of a tree save plan prior to any clearing or grading activities.
- 3) The Applicants must ensure that all inspections required for implementation of the approved tree save plan occur in accordance with Section 22A.00.01.10 ("Inspections") of the Forest Conservation Regulations.
- 4) Prior to issuance of any building permit, the Applicants must provide to Environmental Planning Staff an updated analysis of projected Beltway traffic noise levels affecting this property, which must use noise projection modeling and/or noise monitoring to determine noise levels at the top floor/mid-window elevation of the proposed house. If analysis indicates traffic noise levels of 65 dBA LDN or higher:
 - i. The Applicants must submit to the Environmental Planning Staff certification from an acoustical engineer that the building shell of the new home has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
 - ii. The builder must commit to construct these units in accordance with these acoustical design specifications, with any changes that may affect acoustical performance approved by the acoustical engineer in advance of installation.
- 5) The Applicants must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated March 10, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 6) The Applicants must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated October 23, 2007. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 7) The Applicants must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 8) Prior to approval of the record plat, the Applicants must satisfy all MCDPS requirements to ensure construction of a four-foot wide sidewalk along the property frontage on Broad Brook Drive.

- 9) Before any building permit is issued, the Applicants must make the applicable school facilities payment to the Montgomery County Department of Permitting Services (MCDPS) for 1 new dwelling unit.
- 10) 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.
- 11) 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 except as modified herein, 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 Approved and Adopted 1990 *Bethesda-Chevy Chase Master Plan* classifies the Subject Property as part of the Eastern and Southern Bethesda-Chevy Chase area. The plan notes that "this area has stable land use and transportation characteristics and should remain as is" (pp. 37-38). It further states that other than commercial and higher density uses in the business districts and Chevy Chase Lake, "The remaining land usage is predominantly single-family detached in the R-60 and R-90 zoning categories. In some areas, lot sizes exceed the zoned minimum and may be subject to further subdivision" (p. 38). The Planning Board finds the preliminary plan complies with the recommendations in the master plan in that two lots in conformance with existing zoning standards are proposed and configured in such a way that the existing lot pattern and character of the area will be maintained.

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 further Local Area Transportation Review. The Planning Board finds vehicular and pedestrian access for the subdivision will be safe and adequate with the proposed public and private improvements.

Broad Brook Drive is a secondary residential street requiring 60 feet of right-of-way. The current right-of-way dedication along the Property frontage is adequate

and additional dedication is not required. Although there is not currently a sidewalk along Broad Brook Drive, a sidewalk along the Subject Property's frontage is required to be constructed, unless the Department of Permitting Services accepts a fee-in-lieu.

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. The Subject Property lies within the Walter Johnson School cluster where elementary schools are operating at over 105% of capacity. As a result, a school facilities payment will be required for one new dwelling unit. 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 size, width, shape and orientation of the lots are appropriate for the location of the subdivision, as further discussed in Finding No. 6 below.

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

This property was granted a forest conservation exemption under Section 22A-5(s)(2) of Article I which states that a property is exempt from Article II of the forest conservation law if the activity being proposed is "*an activity occurring on a tract of land less than 1 acre that will not result in the clearing of more than a total of 30,000 square feet of forest, or any existing specimen or champion tree...*" The Planning Board finds the application is, therefore, exempt from the Forest Conservation Law and not subject to a variance request which is applicable to properties subject to Article II of the law.

The proposed project will remove 0.33 acres (14,244 square feet) of existing forest, which does include several specimen sized trees. Section 22A-6(b) of the forest conservation law states that "*An activity or development that would be exempt under Section 22A-5, except that the proposed activity involves clearing*

of a specimen or champion tree, requires the approval of a tree save plan..." The Applicants have submitted a tree save plan for review. The tree save plan was reviewed and comments were sent to the engineering firm responsible for the plan in July of 2009. A revised tree save plan must be submitted for review and approval prior to any clearing or grading activities. Other than forest which has been addressed by the required tree save plan, there are no environmentally sensitive features on the site.

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 Stormwater Management Section approved the stormwater management concept for the project on March 10, 2009 which includes on-site water quality control and recharge via roof top disconnection. 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.*

Size: Lot sizes in the 36-lot Neighborhood range from 8,895 square feet to 30,251 square feet. Twenty-seven lots in the Neighborhood are less than 15,000 square feet in size. Proposed Lot 38 is 12,559 square feet and proposed Lot 39 is 14,629 square feet in size. **The proposed lot sizes are in character with the sizes of existing lots in the Neighborhood.**

Width: Proposed Lot 38 is 67.5 feet wide and proposed Lot 39 is 69.4 feet wide at the building restriction line. The front and rear building restriction lines of the proposed lots are constricted by the slope of the Property and the Beltway at the rear of the Property. Lot widths in the Neighborhood at the building restriction line range from 64 feet to 173 feet. Among those existing lots, nine are 75 feet in width or less, 17 fall between 76 and 100 feet, and 10 measure more than 100 feet in width. Four have widths of 71 feet each. Two existing lots, with widths of 64 and 66 feet respectively, are narrower than the proposed lots. As viewed from the street, the proposed lots would not appear out of character with the 71-foot existing lots, as there would only be a two- to four-foot difference between them, which is not significant. **For these**

reasons, the proposed lots will be in character with existing lots in the neighborhood with respect to width.

Frontage: At the street, proposed Lot 38 has 57.63 feet of frontage and proposed Lot 39 has 61.91. Comparatively, in the 36-lot Neighborhood, frontage measurements at the street range from 53 feet to 251 feet. Nineteen existing lots have between 53 and 80 feet of street frontage, and ten have between 81 and 170 feet. The remaining seven existing lots are corner lots with more than 100 feet of frontage. While the two proposed lots will be among the smallest in the Neighborhood with respect to frontage, they are radial lots which are by nature narrower in the front and wider in the back, and will be comparable to existing radial lots, which respectively have 53, 60, 64, 81, 82, 85 and 91 feet of street frontage. Of these radial lots, Lot 18, Block 4 has 53 feet of frontage on a cul-de-sac and Lot 19, Block 5 has 60 feet of frontage and abuts the Subject Property to the west on Broad Brook Drive. **The proposed lots will be of the same character as other radial lots within the Neighborhood and will also be of the same character as other lots within the Neighborhood as a whole.**

Area: Buildable areas in the 36-lot Neighborhood range from 4,600 to 18,800 square feet. The majority of lots (25) in the Neighborhood have less than 8,000 square feet of buildable area. Proposed Lot 38 has 6,773 square feet of buildable area and proposed Lot 39 has 8,532. **The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area.**

Alignment: Seven lots in the designated Neighborhood are corner lots, four are radial lots and the remaining 25 lots are perpendicular in alignment to the street. As discussed above, the two proposed lots will both have a radial alignment to the street. **The proposed lots are of the same character as existing lots with respect to the alignment criterion.**

Shape: Twelve lots are irregular, 12 lots are rectangular and 12 lots are trapezoidal with respect to lot shape. **The two proposed lots are both irregular in shape and will, therefore, be in character with shapes of the existing lots.**

Suitability for Residential Use: 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 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 APR 5 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 Presley, seconded by Commissioner Wells-Harley, with Commissioners Hanson, Wells-Harley, Alfandre, and Presley voting in favor of the motion, and with Commissioner Dreyfuss absent, at its regular meeting held on Thursday, March 18, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman
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