



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

MCPB No. 10-49
Pre Preliminary Plan No. 720080220
Edgewood Inn
Date of Hearing: April 22, 2010

[SEP 29 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 January 29, 2010, Edgewood Inn, LLC ("Applicant"), filed an application for approval of an impervious area waiver in the Upper Paint Branch Special Protection Area (SPA) to allow 50,302 square feet (13.9% of the 8.29 acre site) of impervious surface with the intent to record one lot, and convert the Edgewood historic site single family home to a Country Inn and restaurant with ancillary retail uses located at the northeast quadrant of the intersection of Oak Mill Road and Spencerville Road (MD 198) ("Property" or "Subject Property"), in the Cloverly Master Plan Area ("Master Plan"); and

WHEREAS, Applicant's pre preliminary plan application was designated Pre Preliminary Plan No. 720080220, Edgewood Inn ("Pre Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated April 12, 2010, setting forth its analysis, and recommendation for denial 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 staff of other governmental agencies, on April 22, 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

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 200, Bethesda, MD 20814 | Chairman's Office: 301.495.4605 | Fax: 301.495.1320

Christina Soren 8/9/10 | www.MCParkandPlanning.org | E-Mail: mcp-chairman@mncppc.org

WHEREAS, on April 22, 2010, the Planning Board approved the Application on motion of Commissioner Dreyfuss; seconded by Commissioner Presley; with a vote of 5-0, Commissioners Alfandre, Dreyfuss, Hanson, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapters 50 and 59, the Planning Board approved Pre Preliminary Plan No. 720080220 to allow an impervious area waiver in the Upper Paint Branch Special Protection Area (SPA) to allow 50,302 square feet (13.9% of the 8.29 acre site) of impervious surface with the intent to record one lot, and convert the Edgewood historic site single family home to a Country Inn and restaurant with ancillary retail uses located at the northeast quadrant of the intersection of Oak Mill Road and Spencerville Road (MD 198) ("Property" or "Subject Property"), in the Cloverly Master Plan Area ("Master Plan").

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff and upon consideration of the entire record, the Montgomery County Planning Board FINDS that:

1. *The amount of impervious surface lawfully existing over the total tract area of the Subject Property (Parcels P161 and P158) is 11.2%.*

The level of lawfully existing impervious surface on Parcel 161 is 36,852 square feet or 11.6%. The Application also includes the adjacent undeveloped RE-1-zoned parcel P158. The acreage of this parcel can be used to create an impervious surface "credit" of 3,512 square feet (which amounts to 8 percent of the total square footage of Parcel P158) that can be used toward creation of new impervious surface within the overall Property. Therefore, the Board finds a total of 40,364 square feet (36,852 + 3,512) of impervious surface can be retained, reconstructed, or newly constructed on the Subject Property under the impervious surface limits set by the Environmental Overlay Zone. This is equivalent to an imperviousness level of 11.2% over the total tract area of parcels P161 and P158.

2. *The Applicant has shown by clear and convincing evidence that they meet all three criteria for a waiver of impervious surfaces in the Upper Paint Branch SPA as specified in Section 59-C-18.152(a)(2)(B).*

Criteria I:

Section 59-C-18.152(a)(2)(B)(i) – Undue Hardship

The Applicant purchased the Property in April of 2006, and assumed that they were allowed to construct what was approved on the Development Plan. If the requested waiver is not granted, it will prevent the Property from being developed as

envisioned by the 1990 Development Plan when it was placed in the Country Inn Zone. The Applicant is making the Property compliant with historic, fire and life safety, ADA, building, and environmental codes. The Applicant has worked diligently since acquiring the Subject Property to upgrade, improve, and make functional the buildings and Property. The waiver is needed to accomplish the proposed improvements, and to support the adaptive reuse of the historic Property. The hardship created by not granting the waiver would likely lead to complete abandonment by the Applicant of the project and preservation of this historic Property as a country inn. Therefore, the Board finds the 11.2 percent impervious area limitation on the Subject Property prevents the adaptive reuse of the historic property and thus qualifies as an undue hardship.

Criteria II:

Section 59-C-18.152(a)(2)(B)(ii) - Compliance with applicable water quality standards

The Applicant has designed a system that is creative and innovative with regard to the collection and recycling of the run-off from the Property. The design includes a free draining system that will collect the rain water, store it and then recycle it through an irrigation system that will support the area for the finished landscape as shown on the Pre Preliminary Plan. The travel access, parking, walking-paths, and landscape have been designed to collect run-off through infiltration. The Applicant will also remove large areas of asphalt paving in front of the house and between the smaller buildings and replacing them with a free-draining stone system. Although the Applicant has not yet obtained a concept plan approval from the Stormwater Management section of the Department of Permitting Services (DPS), it is expected that the Applicant will satisfy all water quality standards. Therefore, the Board finds, upon obtaining approval of a stormwater management concept plan from DPS, the Pre Preliminary Plan meets all applicable water quality standards.

Criteria III:

Section 59-C-18.152(a)(2)(B)(iii) – Relief Sought is Minimum Necessary

The Applicant is requesting an impervious surface waiver of 2.7% from the standard with the Pre Preliminary Plan. To reduce the impacts of this additional impervious surface on the watershed, the Pre Preliminary Plan includes numerous water quality techniques such as pervious paving, free-draining stone systems, and detention facilities. The Applicant proposes that the current amount of impervious area on the site, plus additional area needed for elements shown in the Application, is the minimum amount necessary to develop the Property for its intended use. The Applicant indicates the small addition to the main building is to make it functional as a modern, yet charming restaurant. The Applicant has made every effort to balance the various competing objectives on the Property while minimizing impervious surfaces. As part of the efforts to reduce imperviousness onsite, the Applicant has done the following:

1. Acquired an additional 1.01 acres of land (P158);
2. Removed a previously existing 6,515 square foot stone parking lot; and
3. Reduced the proposed width of sidewalks and paths from five feet to three feet;

In addition to the measures to reduce imperviousness listed above, as a part of the Application, the Applicant is also proposing to:

1. Remove the existing 277-foot-long stone driveway from Spencerville Road (approximately 3,889 square feet);
2. Remove the existing stone driveway along the northern property line from Oak Hill Road (approximately 6,252 square feet);
3. Obtain a parking waiver for 10% of the number of parking spaces required by the Zoning Ordinance; and
4. Remove the existing asphalt areas throughout the Property and realign the main driveway off of Oak Hill Road;

The Applicant has made every effort possible to reduce the amount of impervious surface on site while maintaining a viable adaptive reuse of the historic Property. In order to preserve the historic resource and implement the adaptive reuse of the historic resource in the Upper Paint Branch SPA, the Board finds that the relief sought is the minimum necessary, and approves the Applicant's impervious surface waiver of 2.7% to allow a total of 13.9% impervious surfaces over the total tract area of the Subject Property (Parcels P161 and P158). In addition, the Board's approval of the Applicant's waiver request is contingent upon approval of a Development Plan Amendment (DPA) by Montgomery County's Office of Zoning and Administrative Hearings.

BE IT FURTHER RESOLVED, that this Pre-Preliminary Plan binding review will remain valid for 90 days from the approval of the DPA by the Montgomery County Office of Zoning and Administrative Hearings. The Applicant must file a Preliminary Plan application for the Country Inn within 90 days of the action of the Hearing Examiner. Otherwise, the Pre-Preliminary Plan approval will expire, unless it is extended by action of the Planning Board; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and the date of this Resolution is October 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

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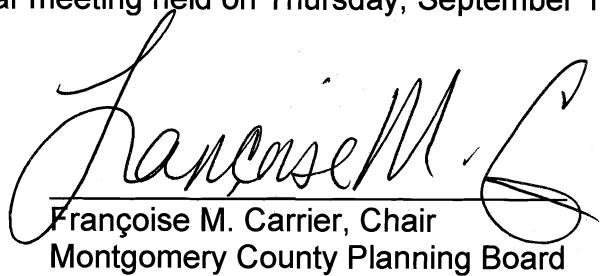
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Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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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-National Capital Park and Planning Commission on motion of Commissioner Alfandre, seconded by Vice Chair Wells-Harley, with Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Chair Carrier abstaining, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board