



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-124

Preliminary Plan No. 120080190

Brooke Park

Date of Hearing: July 29, 2010

DEC -2 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 November 7, 2007, Hanna and Chung Shin ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on 0.44 acres of land in the R-90 zone, located on Brookes Lane, 70 feet southeast of Locust Lane ("Property" or "Subject Property"), in the Bethesda-Chevy Chase master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080190, Brooke Park ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 16, 2010, setting forth its analysis and the analysis of staff of other governmental agencies, with a recommendation for denial of the Application ("Staff Report"); and

WHEREAS, following review and analysis of the Application and the Staff Report, on July 29, 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 July 29, 2010, the Planning Board denied the Application on motion of Commissioner Alfandre; seconded by Commissioner Presley; with a vote of 5-0, Commissioners Alfandre, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor of the motion to deny.

NOW, THEREFORE, BE IT 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, upon consideration of the entire

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Silver Spring, Maryland 20910

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record, and pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Montgomery County Planning Board denies Preliminary Plan No. 120080190 and FINDS, for the reasons set forth below:

1. *The Preliminary Plan fails to comply with Section 50-29(a)(1) of the Subdivision Regulations.*

Section 50-29 of the Subdivision Regulations identifies criteria for lot design. More specifically, Section 50-29(a)(1) states that for lot dimensions, the “*lot size, width, shape and orientation shall be appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated in order to be approved by the board.*”

The Planning Board finds the orientation and width of proposed lot 12 is not appropriate for the location of the subdivision. The angled orientation of the front building restriction line for proposed lot 12 that would be created by dedication for the proposed Maryland Avenue cul-de-sac is out of character with other lots along Maryland Avenue, as well as with lots fronting Brookes Lane. Such orientation permits a calculation of lot width at a point where the corner of the proposed structure meets a line running parallel to the angled front lot line for the proposed cul-de-sac, or on a tangent to the cul-de-sac itself. Measurement in this manner is the only way the proposed lot can meet the required 75 feet of lot width at the front building restriction line, although it would result in the line following the actual front of the building being less than 75 feet wide. Furthermore, the point at which the 75 foot requirement is met sits 34 feet back from the angled front lot line, rather than at the 30 foot required front setback. This means of measurement is not only a deviation from standard practice, but creates a more restricted building envelope for proposed lot 12. All other lots in the area have front building restriction lines that are parallel with the road rights-of-way. In fact, proposed lot 11 meets the minimum required lot width based on accepted measurement practice, although it has an angled front building restriction line - that line is contiguous with the road right-of-way along its entire length. The Planning Board finds the proposed orientation and width of lot 12 are not appropriate in this location given how all other lots in the area are measured.

The Planning Board finds the size of proposed lot 12 is not appropriate for the location of the subdivision. The orientation of proposed lot 12 allows the 2 lots to narrowly meet the size requirements of the Zoning Ordinance; however, existing lots and grandfathered parcels in the neighborhood are generally larger. Although the proposed lot sizes of 9,117 and 9,071 square feet meet the minimum 9,000 square foot lot size for the zone, most of the houses in the same block are on larger parcels (10,000 square feet or larger) that cannot be resubdivided without some consolidation, and the extension of Maryland Avenue as contemplated by the Board for this neighborhood in its approval of Preliminary Plan 1-87128, discussed in more

detail below. Additionally, the Master Plan downzoned the area that includes the Property from R-60 to R-90 in order to assure larger lots that allow for greater sensitivity to the erosion and run-off issues associated with more dense development.

2. *The Preliminary Plan neither substantially conform to the goals set forth in the Master Plan, nor complies with Section 50-2(a) of the Subdivision Regulations.*

Section 50-2 of the Subdivision Regulations sets forth the purposes of Chapter 50, which includes 50-2(a), *the harmonious development of the district*. The Property is located within the Palisades-Western Bethesda-Chevy Chase section of the Bethesda-Chevy Chase Master Plan. The Master Plan specifically identifies the environmentally sensitive nature of the Palisades area. Because of the unique features, including steeply wooded slopes, bluffs, rivers, cliffs, and mature trees, the Plan requires protection of the residential character of the area and preservation of the Palisades' unique environmental features. In order to preserve these features, the area that includes the Property was downzoned from R-60 to R-90 as recommended in the Master Plan. The larger lots have allowed for greater sensitivity to the erosion and run-off issues associated with more dense development. The Applicant stated at the Hearing that the Subject Property does not have the unique environmental features of other property within the Palisades area. However, the Board found that the impact from the proposed development of the Property in accordance with the Application would have the adverse impact that the Master Plan intended to avoid with development of the district.

The proposed subdivision will create a lot that must be served by a newly configured roadway for a Maryland Avenue cul-de-sac, which requires grading on a small portion of steep slopes (25% or greater). Furthermore, significant grading to accommodate a house on proposed lot 12, where slopes approach 15%, and frontage created through an irregular shaped lot to achieve width compliance may establish a threshold to encourage a second lot that might be created adjacent to this subdivision as another lot that has the same problems with size and relationship to abutting properties and homes. The Board found concerns raised by neighbors of the Subject Property to be compelling - that the Application fails to achieve appropriate sensitivity to the erosion and run-off issues associated with the steep slopes of the Palisades and sets a dangerous precedent for future development of the area. Additionally, the newly configured roadway for a Maryland Avenue cul-de-sac would have required the removal of mature trees that are significant to the neighborhood.

In a 1987 subdivision approval in the same neighborhood, the Board required the applicant to dedicate a portion of its property for the future possible extension of

Maryland Avenue (Preliminary Plan 1-87128). The Board determined that this future extension should provide necessary access to unrecorded parcels to the north and east of that property were they to later seek subdivision and development. Construction of the proposed Maryland Avenue cul-de-sac from which to access proposed lot 12 - as opposed to a dedication for additional Maryland Avenue right-of-way extended as the Board had envisioned - would impede the ability of those other properties to access Maryland Avenue, thus precluding the potential for harmonious development of the district. The Planning Board finds the problems associated with this application result in a preliminary plan that fails to achieve harmonious development of the district and does not substantially conform to the goals for protecting the existing residential character and unique environmental features of the area set forth in the Master Plan.

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 _____, seconded by Commissioner _____, with Commissioners _____, _____, _____, _____, and _____ voting in favor of the motion, [***modify vote as applicable if PB member absent, abstains, etc.***] at its regular meeting held on Thursday, _____, in Silver Spring, Maryland.

Françoise M. Carrier, Chair
Montgomery County Planning Board

Maryland Avenue (Preliminary Plan 1-87128). The Board determined that this future extension should provide necessary access to unrecorded parcels to the north and east of that property were they to later seek subdivision and development. Construction of the proposed Maryland Avenue cul-de-sac from which to access proposed lot 12 - as opposed to a dedication for additional Maryland Avenue right-of-way extended as the Board had envisioned - would impede the ability of those other properties to access Maryland Avenue, thus precluding the potential for harmonious development of the district. The Planning Board finds the problems associated with this application result in a preliminary plan that fails to achieve harmonious development of the district and does not substantially conform to the goals for protecting the existing residential character and unique environmental features of the area set forth in the Master Plan.

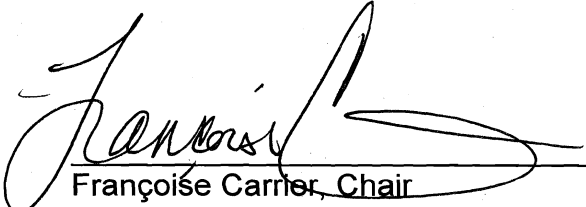
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC -2 2010 (which is the date that this Resolution is mailed to all parties of record); and

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 Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, November 18, 2010, in Silver Spring, Maryland.


Françoise Carrier, Chair
Montgomery County Planning Board

M-NCPPC



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION


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C.C.
November 8, 2010

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Carol S. Rubin, Associate General Counsel 
301.495.4646

RE: Brooke Park Preliminary Plan No. 120080190,
Resolution corrections

With this memorandum we forward for the Board's adoption the resolution for Brooke Park Preliminary Plan No. 120080190. The resolution was adopted by the Planning Board on September 30, 2010. Prior to the mailing of the resolution to the parties of record, certain grammatical changes were made on pages two through four for the purpose of clarification. The changes are non-substantive in nature. In addition, the resolution was assigned a new resolution number to avoid duplication.