

MAR 14 2012



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 11-133
Preliminary Plan No. 120120050
Greenway Property
Date of Hearing: December 8, 2011

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 September 7, 2011, G. Lauder Greenway II ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would adjust a lot line between two existing and abutting residential lots on 0.9' acres of land in the R-90 zone, located respectively at 5706 Mohican Road and 5721 Bent Branch Road approximately 450 feet south of Massachusetts Avenue ("Property" or "Subject Property"), in the Bethesda - Chevy Chase Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120120050, Greenway Property ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated November 18, 2011, setting forth its analysis, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on December 8, 2011, 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 December 8, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Anderson, seconded by

APPROVED AS TO LEGAL SUFFICIENCY

A handwritten signature in black ink, appearing to be "M. Anderson", written over a horizontal line.

M-NCPPC Legal Department

Commissioner Presley, with a vote of 3-0; Commissioners Arderson, Carrier, and Presley voting in favor, and Commissioners Dreyfuss and Wells-Harley being absent from the Hearing.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120120050, subject to the following condition s:

- 1) Approval under this Preliminary Plan is limited to 2 lots for 2 dwelling units.
- 2) The record plat must note that the Preliminary Plan is exempt from forest conservation requirements per Exemption #42011194E.
- 3) The Applicant must comply with the conditions of the Montgomery County Department of Transportation ("MCDOT") letter dated November 8, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The record plat must show necessary easements.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and 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 Property is located in the Bethesda-Chevy Chase Master Plan area, which does not specifically address the Subject Property. The Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change to a particular property. In the case of the Subject Property, the Master Plan calls for retention of the existing R-90 zoning. The Preliminary Plan complies with the recommendations adopted in the Master Plan in that it proposes one-family residential development consistent with surrounding development patterns and the current zoning designation. The residential lots as approved are similar to surrounding lots with respect to dimensions, orientation, and shape. The Preliminary Plan will not alter the existing pattern of development or land use and is in substantial conformance with the Master Plan recommendation to maintain the existing land use.

2. *Public facilities will be adequate to support and service the area of the Preliminary Plan.*

Roads and Transportation

The Preliminary Plan retains the two existing homes on the Property. No new development is proposed. Since this Preliminary Plan is not proposing any new density, the Application is exempt from Adequate Public Facilities review. The

Preliminary Plan will not have an adverse effect on the transportation network in the immediate vicinity of the Property.

Access to Lots A and B will be provided by existing driveways via Mohican and Bent Branch Roads, respectively. Sidewalks do not exist on either Bent Branch or Mohican Roads, but the Board has determined that the roads can be safely used by pedestrians at this time. The low volume of traffic on each roadway allows pedestrians to safely travel in the roadways. However, the Applicant will be required to execute and record a Declaration of Covenants that will require the construction of sidewalks, if MCDOT determines it is necessary. The Board finds that proposed vehicle and pedestrian access for the site is safe and adequate.

Other Public Facilities and Services

Public facilities and services are available and adequate to serve the proposed development. The Property will be served by public water and sewer systems. The Montgomery County Fire and Rescue Service has determined that the Property has appropriate access for fire and rescue vehicles. The Property is located in the Whitman cluster, which is operating at over 105% of program capacity for its elementary and middle schools. Since both dwelling units already exist under the approved Preliminary Plan, it is not subject to the school facility payment. Other public facilities and services, such as police stations, firehouses and health services are available to serve the existing dwelling units. Electrical, gas, and telecommunications services are also available to serve the Property.

3. *The size, width, shape, and orientation of the 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 considered the dimensional characteristics of the lots, compared them to existing lots in the immediate area, and finds that the proposed lot sizes, width, shape and orientation are appropriate for the location of the subdivision. The Board also finds the lots are in compliance with the dimensional requirements for area, frontage, width, and setbacks in the R-90 zone.

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

A. Forest Conservation

The Preliminary Plan is exempt from the forest conservation requirements since no forest clearing, tree cutting, or land disturbance activity will occur. An exemption letter (#42011194E) was issued on May 23, 2011, and it remains valid for the Preliminary Plan.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.*

The Montgomery County Department of Permitting Services has reviewed the Application and determined it is exempt from the County's stormwater management requirements as no new construction is proposed.

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 17-lot neighborhood as delineated in the Staff Report, and approved by the Board ("Neighborhood").*

Size: Lot sizes in this Neighborhood range from 10,740 square feet to 37,278 square feet. Eleven lots fall within the 10,000 square feet to 20,000 square feet range. Three lots are between 25,000 and 30,000 square feet with the remaining three lots ranging from 30,000 to 37,278 square feet. Lot A will be 20,249 square feet and Lot B will be 22,106 square feet. The Board finds that the lots in the Preliminary Plan are in character with the size of existing lots in the neighborhood.

Width: Lots in the Neighborhood range from 74 feet to 221 feet in width. One lot is 74 feet in width. Ten lots are between 75 feet and 125 feet in width, three lots range from 125 feet to 175 feet in width, and the remaining three lots are in excess of 175 feet in width. Lot A will be 154 feet in width while Lot B will be 165 feet in width. The Board finds that the lots in this Preliminary Plan are in character with existing lots in the neighborhood with respect to width.

Frontage: The Neighborhood lots have frontages ranging from 68 feet to 243 feet. Frontage for nine lots ranges from 68 feet to 100 feet, six lots have frontage between 100 feet and 200 feet. The remaining three lots have frontage in excess of 200 feet. The two lots in this subdivision have frontages of 168 feet and 174 feet. The Board finds that the lots in this Preliminary Plan are in character with existing lots in the Neighborhood with respect to lot frontage.

Area: The lots in the Neighborhood range from 3,777 square feet to 18,619 square feet. Four lots have buildable areas less than 5,000 square feet. Seven lots have buildable areas between 5,000 square feet and 10,000 square feet with five lots ranging from 10,000 square feet to 15,000 square feet. The remaining one lot has a buildable area in excess of 15,000 square feet. Buildable areas for the lots in this Preliminary Plan are 9,343 square feet and 10,661 square feet, respectively. The Board finds that the lots in this Preliminary Plan are in character with other lots in the Neighborhood with respect to buildable area.

Alignment: Of the 17 lots in the Neighborhood, ten lots are perpendicular, six are corner lots and one lot is angular. Lot A is perpendicular and Lot B is a corner lot.

The Board finds the lots in this Preliminary Plan are in character with existing lots in the Neighborhood with respect to the alignment criterion.

Shape: The 17 lots in the Neighborhood consist of the following shapes: nine lots are rectangular, seven lots are trapezoidal and one lot is irregular. Lot A is irregular in shape while Lot B is trapezoidal. The Board finds that the shapes of the lots in this Preliminary Plan are in character with shapes of the existing lots in the Neighborhood.

Suitability for Residential Use: The existing and the new lots are all zoned residential. A one family detached house is contained on each new lot and the Board finds the land suitable for residential use.

BE IT FURTHER RESOLVED, that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner, or any successor(s) in interest to the terms of this approval; and

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

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 14 2012 (which is the date that this Resolution is mailed to all parties of record); and

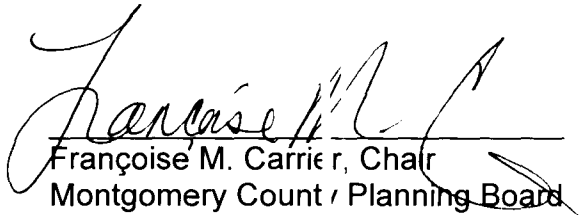
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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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 Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners

Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, March 8, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board