



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

MAR 24 2012

MCPB No. 11-134
Preliminary Plan No. 120100170
Lincoln Park
Date of Hearing: December 8, 2011

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 22, 2010, Interstate Westmore, LLC (Perry Cho) ("Applicant"), filed an application to record one lot, approximately 10.07 acres in size, to allow construction of a 15,000 square foot material storage building and a 27,160 square foot warehouse in the I-1 Zone, which property is bound by Westmore Avenue, Ashley Avenue, and the C.S.X Railroad ("Property" or "Subject Property"), in the Upper Rock Creek Area Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120100170, Lincoln Park ("Preliminary Plan" or "Application"); and

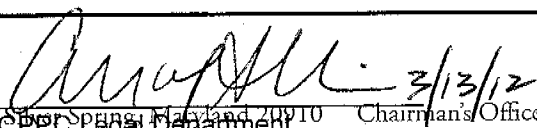
WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board, dated November 22, 2011, setting forth its analysis, and recommendation for approval, of the Application subject to 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:

 3/13/12
8787 Georgia Avenue, Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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Commissioner Presley, with a vote of 3-0; Commissioners Anderson, Carrier, and Presley voting in favor, with Commissioners Dreyfuss, and Wells-Harley absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120100170 to record one lot, approximately 10.07 acres in size, and to allow construction of a 15,000 square foot material storage building and a 27,160 square foot warehouse on the Property, subject to the following conditions:

1. The Applicant must limit the Preliminary Plan to two warehouse buildings of up to 15,000 square feet and 27,160 square feet, respectively, totaling up to 42,160 square feet.
2. The Applicant must satisfy the Policy Area Mobility Review ("PAMR") test by contributing to the Montgomery County Department of Transportation ("MCDOT") \$33,000 or \$11,000 for each of the 3 new peak-hour trips. The PAMR payment to MCDOT must be made prior to issuance of any building permit.
3. The Applicant must dedicate additional right-of-way for a total of 35 feet from the centerline along the northern half of the property's Westmore Avenue frontage and provide a 7-foot-wide sidewalk with a 7-foot-wide green panel/buffer along the property frontage as shown on the revised plan dated October 3, 2011 prior to issuance of a building permit.
4. The Applicant must provide frontage improvements that do not encroach on the forest conservation easement, if required by the City of Rockville for Ashley Avenue prior to issuance of a building permit.
5. The Applicant must satisfy provisions for water and sewer as required by the City of Rockville ("City") prior to issuance of a building permit.
6. The Applicant must satisfy provisions for access and improvements as required by the City prior to recordation of plat(s).
7. The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
8. The Applicant must submit a revised Final Forest Conservation Plan showing soil remediation and afforestation of the 215 foot by 8 foot strip (1,720 square feet) to be added to the Category I Conservation Easement on-site, as shown on the Preliminary Plan prior to issuance of a building permit.
9. The Applicant must comply with the conditions of approval of the Montgomery County Fire and Rescue ("MCF&R") letter dated November 1, 2010. These conditions may be amended by MCF&R, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
10. The Applicant must comply with the conditions of approval of the MCDOT letter dated July 7, 2010. These conditions may be amended by the MCDOT, 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 Permitting Services ("MCDPS") stormwater management concept approval letter dated January 22, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
12. The Adequate Public Facilities ("APF") review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
13. All 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 presented at the Hearing and 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 Master Plan includes analysis and a recommendation for this property, known in the Plan as the WINX property for its primary user at the time the Master Plan was completed. The Master Plan makes the following recommendations (page 31):

1. Retain the property in the I-1 Zone, to allow low intensity light industrial uses that do not require community water and sewer service.
2. Support strongly residential development of this property over the long term and support recommendations in appropriate City of Rockville master plans for residential development, including elderly housing, if annexation occurs.

The Master Plan's recommendations are premised in part on the notion that the property is not part of the Washington Suburban Sanitary Commission's service area, that it is part of the City's service area, *and that it did not have water or sewer service.* As to the first recommendation, Staff understood from City planning staff that the City's policies precluded service to properties not within Rockville's service district; all parties assumed as a result that the property's location outside the city limits meant that it was not being served. However, a small existing building on the site is indeed served by the City's water and sewer service department. The approved use does not require an upgrade to the existing water and sewer service provided by the City. Therefore, the Planning Board finds the proposed interim light industrial use to be in conformance with the Master Plan.

As to the second recommendation, since the owners of the Property had not expressed interest in annexation, the Plan recognized that the radio towers onsite would possibly remain in place for the life of the Master Plan. Thus, the Plan retained the existing light

industrial zone, to allow some additional uses of the property while its owners determined a long-term course of action. Light industrial activities were contemplated and determined to be an acceptable interim use of the Subject Property. Therefore, the Planning Board finds the proposed interim light industrial use to be in conformance with the Master Plan.

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

Site Location and Vehicular Site Access

The site is located in the north side of Ashley Avenue between Westmore Avenue and the CSX railroad tracks. The Subject Property is surrounded by the City's corporate limits on three sides except the east side. The two existing vehicular access points are from Ashley Avenue and Westmore Avenue. The Applicant is required to address access as required by MCDOT.

Available Transit Service

Transit service is provided by Ride-On route 59 that operates on Frederick Avenue approximately 1,000 feet south of the Property.

Master/Sector-Planned Roadway and Bikeway

Westmore Avenue runs along the eastern side of the Property and is located within Montgomery County (i.e., outside the City's corporate limits). According to the Master Plan, Westmore Avenue is designated an industrial roadway with a 70-foot right-of-way and no bikeway. Westmore Avenue has a right-of-way of 70 feet along the southern half and 35-to-40 feet along the northern half of the Property frontage. Thus, approval is conditioned on additional right-of-way dedication for a total of 35 feet from the Westmore Avenue centerline is required. In addition, a 7-foot-wide sidewalk and a 7-foot-wide green panel/buffer along the Property frontage in accordance with the County's Road Code Standards 2005.02 and MC-2154.03.

Ashley Avenue is located within the City's corporate limits. Ashley Avenue is a secondary residential street that provides local access for up to 2,000 vehicles per day, and is not listed in the adopted 2002 Rockville *Comprehensive Master Plan*. Ashley Avenue has a 30-foot wide right-of-way, where the standard right-of-way width for a secondary residential road within the City is 50 feet. According to the adopted 2004 Rockville *Bikeway Master Plan Update*, a sign shared roadway is designated along Ashley Avenue.

Pedestrian Facilities

The pedestrian facilities are substandard with only an existing 4-foot-wide sidewalk on the opposite side of Ashley Avenue and no sidewalks along Westmore Avenue. The

Applicant will provide pedestrian improvements (a 7-foot-wide sidewalk with a 7-foot-wide green panel/buffer) along the frontage of Westmore Avenue as shown on the Preliminary Plan. Additional sidewalks, if required by the City will be installed in the right-of-way, so long as they do not encroach on the forest conservation easement on the Property.

Local Area Transportation Review ("LATR")

The two warehouses generate the following number of peak-hour trips during both the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.):

Land Use	Square Feet	Weekday Peak-Hour	
		Morning	Evening
Proposed Warehouse II	27,160	8	9
Proposed Material Storage Building	15,000	5	5
Total Warehouse Space	42,160	13	14
Existing Building	597	1	1
Net Increase of New Trips	41,563	12	13

A traffic study is not required to satisfy the LATR test because the proposed land use generates fewer than 30 peak-hour trips within the weekday morning and evening peak periods.

Policy Area Mobility Review ("PAMR")

The Applicant must satisfy the PAMR test under the FY 2010 *Subdivision Staging Policy* that was in effect when the Preliminary Plan application was filed. Under that PAMR test, the Applicant was required to mitigate 3 (i.e., 20% of the 13) new peak-hour trips generated by the proposed warehouse within the weekday peak periods. The PAMR test may be satisfied by paying MCDOT \$33,000 (\$11,000 per trip).

Therefore, with the intersection improvements and the Applicant's monetary PAMR contribution, the Applicant has satisfied the LATR and PAMR Guidelines.

Other Public Facilities

Other public facilities and services are available and will be adequate to serve the approved development. The Property will be served by public water and public sewer systems provided by the City. The Application has been reviewed by the MCFRS who have determined that the Property has appropriate access for fire and rescue vehicles. The nearest hydrant is required to flow at 1,000 gpm, and according to the City's flow test, the nearest hydrant flows at 1,024 gpm. MCFRS indicated that a final flow test would be performed at the time of building permit. Electrical, gas, and telecommunications services are also available to serve the Property. Police stations,

firehouses, and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect. The Preliminary Plan application does not include any residential uses, so there is no impact on schools.

Therefore, the Planning Board finds that the public facilities provide adequate support for and service to the Property.

3. *The size, width, shape, and orientation of the approved lot is appropriate for the location of the subdivision.*

The lot is in compliance with 50-29(a) of the Subdivision Regulations.

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

Natural Resource Inventory/Forest Stand Delineation ("NRI/FSD")

The NRI/FSD identifies the environmental constraints and forest resources on the Property. NRI/FSD #420002570 for this Property was approved on May 3, 2000. The Property contains 7.97 acres of forest. The site's topography slopes from west to east but does not include any moderate or steep slopes. The Property contains no streams wetlands or environmental buffers.

The Property is within the Upper Rock Creek watershed; a Class IV watershed. The Montgomery County Department of Environmental Protection's "Countywide Stream Protection Strategy" (February 1998) documents the subwatershed condition as poor.

Preliminary Forest Conservation Plan and Environmental Guidelines

This Property has a previously approved forest conservation plan (#SC2001001) which showed 5.87 acres of forest clearing, 2.1 acres of forest retention, and a 0.92 acre planting requirement. The 0.92 acre planting requirement was met on-site.

As part of this Preliminary Plan the Applicant also submitted a revised final forest conservation plan. The forest conservation plan updates the final grading and site design as shown on the Preliminary Plan. Under the revised Final Forest Conservation Plan, the Applicant will remove a small section; approximately 2,981 square feet (0.068 acres), of the existing Category I Conservation Easement to allow for fire access and replace it on-site with 2,988 square feet of additional easement area. Of the 2,988 square feet of additional easement area 1,268 is existing forest and will not require additional plantings. However, 1,720 square feet on the west side of the Property is

currently within the developed area of the site and is not forested. The Applicant will seed this area and allow it to naturally regenerate. No trees are being removed or impacted by this project.

Therefore, with the analysis above and conditions of approval, the Board finds that the Application satisfies the requirements and meets the intents of the Environmental Guidelines and Forest Conservation Law.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the Property. This finding is based on the determination by DPS that the Stormwater Management Concept Plan approval meets DPS' standards.*

MCDPS, Stormwater Management Section, approved the stormwater management concept for the project on January 22, 2010. The concept consists of onsite channel protection measures and onsite water quality control via the existing sand filter and detention pond on the Property.

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 Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is MAR 24 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).

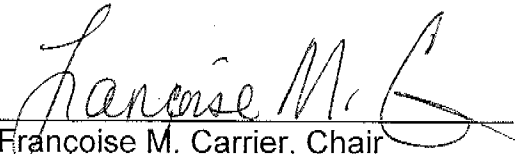
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CERTIFICATION

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 Anderson, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and

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Commissioners Anderson and Dreyfuss voting in favor of the motion, and with Commissioner Presley absent, at its regular meeting held on Thursday, March 22, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board