



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

MCPB No. 13-95
Preliminary Plan No. 120130100
Reserve Business Center
Date of Hearing: June 27, 2013

SEP 12 2013

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on December 28, 2012, M & D Real Estate, LLC, ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 13.74 acres of land in the I-4 zone, located at the east side of Snouffer School Road, approximately 300 feet north of Ridge Heights Drive ("Subject Property"), in the Montgomery Village/Airpark Policy Area and the 1985 Gaithersburg Vicinity Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120130100, Reserve Business Center ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 14, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 27, 2013, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on June 27, 2013, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Wells-Harley, with a vote of 4-0; Commissioners Anderson, Carrier, Dreyfuss, and Wells-Harley voting in favor. Commissioner Presley was absent from the hearing.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120130100 to create one lot on the Subject Property, subject to

Approved as to
Legal Sufficiency

Annex M - 8/12/13
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M-NCPPC Legal Department
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the following conditions:¹

1. This Preliminary Plan is limited up to 188,000 square feet of warehouse space and up to 40,000 square feet of general office space use, provided the total space does not exceed 200,000 square feet.
2. Other than for environmental testing, no land disturbing activities shall be permitted until the Applicant has received either a No Further Requirements letter from the Maryland Department of the Environment ("MDE"), or approval of a Response Action Plan by MDE. The Applicant must follow any environmental mitigation measures required by MDE during construction.
3. The Applicant must obtain approval of a final forest conservation plan from Staff prior to record plat approval and before any demolition, clearing, or grading on-site.
4. The Applicant will provide such traffic control measures and design of the Snouffer School Road/Ridge Heights Drive intersection to encourage trucks to travel to and from the site south along Snouffer School Road, as determined by the Montgomery County Department of Transportation ("MCDOT").
5. Subject to future agreements with the Federal Government and Montgomery County, the Applicant must finalize access agreements with the U.S. Government and the MCDOT before record plat approval.
6. The Applicant must provide a public access easement for the existing trail that crosses the northern property line.
7. The Applicant must provide for safe pedestrian movement on the site with ADA-compliant pedestrian connections from the handicapped parking spaces to the building entrances.
8. The Applicant must provide 18 bicycle parking spaces located near the entrances of each building with connections to the on-site sidewalk network and, if possible in a weather-protected area. A minimum of 12 spaces using inverted-U bike racks, or approved equivalent, and 6 spaces using bike lockers, or approved equivalent, must be provided.
9. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter, dated May 24,

¹ 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.

2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the MCDOT letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

10. Prior to recordation of the plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT, including any necessary deceleration/acceleration lanes at the intersection of the access driveway and Snouffer School Road.
11. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated June 11, 2013 and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
12. The record plat(s) must show necessary easements, as applicable.
13. 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.
14. Prior to Preliminary Plan certification, the first line under the 'Site Tabulations' on the Preliminary Plan must specify the use of the standard method of development.
15. Unless specifically noted on Preliminary Plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.
16. The Applicant shall submit the buffer wall design to the Architectural Committee of the Montgomery Village Foundation for review, prior to submission for building permit application.
17. The height of the north building is limited to 35 feet.

BE IT FURTHER RESOLVED, that, having considered 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 Planning Board FINDS, with the conditions of approval, that:

1. The Preliminary Plan substantially conforms to the Master Plan.

The Master Plan contains little in the way of detailed recommendations for this site, only the zoning designation. The Property is identified as Airpark Analysis Area 52 in the Master Plan. The Master Plan discussion of the Airpark Study Area states that "Land use proposals in the Airpark vicinity should locate non-residential uses in noise-impacted areas" (page 41). On the same page, the Master Plan says that "This Plan has channeled non-residential uses to properties lying within the 60 Ldn noise contours [from the airport]. The I-4 Zone was developed to address the problems related to industrial land use in this part of the Study Area." The Land Use Plan that accompanies the Master Plan places the site within an area recommended for Industrial (Manufacturing and Warehouses) land uses.

The Application is to develop the Subject Property with light industrial warehouse and accessory office buildings in substantial conformance with the Master Plan recommendations.

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

Pedestrian Facilities

An MCDOT CIP Project for Snouffer School Road North (Webb Tract) will provide sidewalks and the master-planned shared use path.

There is a 5-foot wide lead-in sidewalk from Snouffer School Road on the north and west side of the site's driveway. In addition, an access easement is provided for the existing trail serving the adjacent residents that crosses the northern property line.

Bicycle Accommodations

A total of 18 total bike parking spaces will be provided with the development of the Subject Property. The bike parking spaces will include bike lockers for employees and inverted-U bike racks for visitors and employees. The bike parking spaces are located near the main entrances of each building with the bike racks in weather-protected areas to the extent possible.

Roads and Transportation Facilities

As conditioned, the Application satisfies the Local Area Transportation Review ("LATR"). As allowed under the Subdivision Staging Policy in effect, the Applicant chose to satisfy the "policy area review" test by meeting the Policy Area Mobility Review ("PAMR") requirements. Since the PAMR mitigation is 0% in the Montgomery Village/Airpark Policy Area, the policy area review test is satisfied.

Other Public Facilities

Adequate public facilities and services will be available to serve the Subject Property. It is located in water and sewer service area categories W-3/S-3. Public water will be extended from Snouffer School Road through the County-owned property. Sanitary sewer will be extended on the east side of the Subject Property through the adjoining County property. Other utilities, including gas, electricity, telephone and cable will be provided to the Subject Property from Snouffer School Road. Fire, police, and rescue services are within appropriate distances to serve the Subject Property. A Fire Access Plan has been approved by the Montgomery County Fire and Rescue Service.

- 3. The size, width, shape, and orientation of the approved lots are 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.*

The Application complies with the Montgomery County Code, Chapter 50-29(a) of the Subdivision Regulations, and Chapter 59, the Zoning Ordinance. The Planning Board finds that the size, shape, width, and area of the lot are appropriate for the location of the subdivision.

The vehicular access point is from Snouffer School Road opposite Ridge Heights Drive via access easements from the owners of the adjacent Army Reserve and Montgomery County owned properties. This access location allows full turning movements from the driveway.

The lot was reviewed for compliance with the dimensional requirements for the I-4 zone. The development meets all applicable development standards of the I-4 zone and complies with the purpose clause as set forth in the Zoning Ordinance. The project conforms to the Montgomery County Code, Chapter 50, Subdivision Regulations.

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

A. Forest Conservation

This property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and a preliminary forest conservation plan ("PFCP") was approved with the Application. The PFCP includes the removal of 4.72 acres of forest and requires a total of 3.26 acres of reforestation. The Applicant will meet the planting requirement by:

- Planting 0.25 acres of landscape trees,
- Planting 0.40 acres of reforestation on-site,
- Placing 1.58 acres in a Category I conservation easement, and
- Meeting the remaining 2.61 acres of reforestation requirement off-site.

B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to 10 Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant has requested a Variance and the Board agreed that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board made the following findings necessary to grant the Variance:

1. *Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The Subject Property is proposed for development consistent with the I-4 zone. One of the four Protected Trees to be removed (tree 68) is located within the access easement to the Subject Property. The entrance alignment was designed to meet operational safety requirements. Trees 61-63 are located on Parcel 649, and due to the

narrow configuration of the parcel and the use of this parcel for access to the remainder of the development, restricting the removal of these trees would significantly limit the already limited developable area of the Subject Property. Finally, because the Applicant must preserve and plant 1.58 acres of forest along the northern boundary of the site, the buildings must be constructed towards the central and southern portions of the site. Therefore, perimeter parking and road access to the buildings will require impacts to the CRZs of the Protected Trees located off-site and along the western boundary.

- 2. The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The Planning Board finds that the requested variance is based on access to the site from Snouffer School Road, and the existing site conditions, rather than on conditions or circumstances which are the result of actions by the Applicant.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The Variance is not as a result of land or building use on a neighboring property.

- 4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

Because the Protected Trees to be removed will be mitigated with new forest and tree plantings, any water quality benefits that would be lost by their removal will be replaced by the new planting. In addition, the Protected Trees are not located within an environmental buffer or within a special protection area.

This Application disturbs the CRZs of six Protected Trees and removes four Protected Trees; three of which are located within an existing forest stand and will be mitigated as part of the reforestation planting requirement. In order to mitigate for removal of the Protected Tree outside the forest area, the Applicant will plant three 3" caliper native trees on-site. Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately 1" caliper for every 4" DBH removed. While these trees will not be as large as the trees

lost, they will provide some immediate canopy and will help augment the canopy coverage. No mitigation is required for Protected Trees impacted but retained.

5. All storm water management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Section 19-20 through 19-35.

The MCDPS Stormwater Management Section conditionally approved the Stormwater Management Concept for the Applicant on June 11, 2013. The stormwater management concept proposes to meet required stormwater management goals via the use of micro biofiltration and structural filtration.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months (5 years) from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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 in the Montgomery County Land Records, or a request for an extension must be filed; and

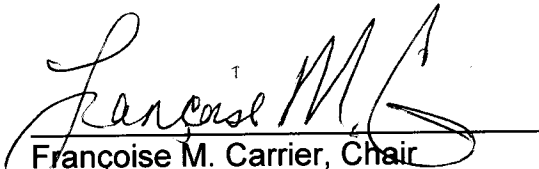
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 12 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Presley voting in favor and Commissioners Anderson and Dreyfuss absent at its regular meeting held on Wednesday, September 4, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board