



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

DEC 23 2013

MCPB No. 13-182
Preliminary Plan No. 11964054A
Halpine View
Date of Hearing: December 19, 2013

RESOLUTION

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

WHEREAS, after a hearing on January 1, 1964, the Planning Board approved Preliminary Plan No. 119640540, creating two lots, one of which was subsequently resubdivided into two lots, on 39.31 acres of land on the west side of Twinbrook Parkway, approximately 2,000 feet southwest of its intersection with Veirs Mill Road ("Subject Property"); and

WHEREAS, on August 1, 2013, Halpine Park LLC ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan for the abandonment and re-platting of the portion of the unimproved Aspen Hill Road Extended right-of-way that runs through the Subject Property, consisting of 1.9 acres in the R-30 Zone, located at the northeast quadrant of the intersection of Twinbrook Parkway and Halpine Road ("Abandonment Area"), in the North Bethesda/Garrett Park Master Plan ("Master Plan") area; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Limited Preliminary Plan No. 11964054A ("Amendment" 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 December 6, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 19, 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

Approved as to Legal Sufficiency *Willard* 12/2/13
6787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
M-NCPPC Legal Department
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Limited Preliminary Plan No. 11964054A for the abandonment of the portion of the unbuilt Aspen Hill Road Extended right-of-way currently dividing the Subject Property and its incorporation into the existing, adjacent Parcel B to form a new lot, pursuant to Sections 50-15(c) and 49-68 of the Montgomery County Code, subject to the following conditions:¹

1. The Amendment is limited to the land uses currently existing on the Subject Property. A new preliminary plan or amendment and the associated Adequate Public Facilities ("APF") test are required for any change to the existing land uses.
2. To effectuate the road abandonment, the Applicant must record a new record plat that consolidates the Abandonment Area (as currently described by deed recorded at Liber 3221 Folio 441 in the Land Records) and the existing adjacent Parcel B, Prevention Subdivision, into a new lot.
3. Prior to recordation of the plat, the Applicant must provide Staff a recorded deed of transfer that demonstrates conveyance of the Abandonment Area from Montgomery County to the Applicant.
4. The record plat must reflect any necessary public access easements for shared use path B-2, recommended in the Approved and Adopted 2009 *Twinbrook Sector Plan*, if the final B-2 trail alignment crosses any of the Abandonment Area.
5. The record plat must reflect an easement for any existing overhead and underground utility facilities currently in the Abandonment Area that serve Parcel A-1 and A-2 from Parcel B. Alternatively, Applicant must pay the utility or utilities to install new facilities to serve Parcel A-1 and A-2, and any existing facilities in the Abandonment Area will serve Parcel B only.

BE IT FURTHER RESOLVED, that all other conditions of approval for Preliminary Plan No. 119640540 remain valid, unchanged and in full force and effect.

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

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.

herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Abandonment Area, previously dedicated as a right-of-way for Aspen Road Extended, has not been in public use and qualifies for abandonment pursuant to Sections 50-15(c) and 49-68 of the Montgomery County Code.*

The Abandonment Area, which formed a part of the proposed Aspen Hill Road Extended, qualifies for abandonment pursuant to Sections 50-15(c) and 49-68. The Abandonment Area is a largely undeveloped wooded area that has never been in public use as a roadway and is not necessary for anticipated future public use. The Master Plan recommends the deletion of the proposed Aspen Hill Road Extended (pages 160-61). As stated in its letter dated October 18, 2013, the Montgomery County Department of Transportation also does not object to the abandonment of this portion of the Aspen Hill Road Extended right-of-way and finds that abandonment of the Abandonment Area will have no adverse impacts to the abutting properties or public mobility in the area.

2. *The Amendment substantially conforms to the Master Plan.*

As described above, this Amendment is consistent with the Master Plan. The Amendment does not alter the approved uses or square footage of development on the Subject Property.

3. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

Because this Amendment generates no additional development, the adequate public facilities as previously approved remain valid, including adequate access and safety for pedestrians and vehicles. Development on the Subject Property continues to be bound to the density and uses approved with the original Preliminary Plan No. 119640540.

4. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The size, width, shape, and orientation of the approved lots as amended continue to be appropriate for the location of the subdivision. The Amendment will formally consolidate the largely undeveloped Abandonment Area with the existing Parcel B on the Subject Property, but it will otherwise not appreciably change the configuration or character of lots on the Subject Property.

existing Parcel B on the Subject Property, but it will otherwise not appreciably change the configuration or character of lots on the Subject Property.

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

Per Forest Conservation Exemption No. 42014085E, dated November 18, 2013, the Subject Property is exempt from the requirement of submitting a Forest Conservation Plan under Section 22A-5(m) of the Forest Conservation Law.

BE IT FURTHER RESOLVED, that this Amendment will remain valid for 60 months from the Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) of the approval and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Amendment must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

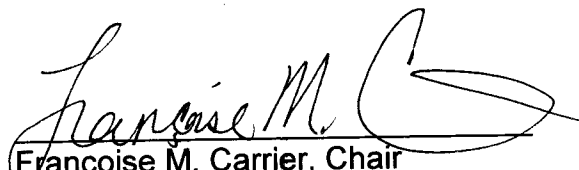
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 23 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Vice Chair Wells-Harley, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, December 19, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board