



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

MCPB
ITEM #
7/26/07

DATE: July 13, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: ^{UB} Neil Braunstein, Planner Coordinator (301) 495-4532
Development Review Division

SUBJECT: Request for an extension to the validity period – Preliminary Plan No. 120040420 – The Quarry

Recommendation: Extend validity period to January 7, 2008

Discussion:

The subject preliminary plan, together with a project plan, was approved by the Planning Board on May 20, 2004 for one lot for 97 condominium units and one clubhouse located on the north side of River Road (MD 190), approximately 2,000 feet west of Seven Locks Road. The resolution reflecting the Planning Board's action was mailed on June 7, 2004. Pursuant to the conditions of approval, the preliminary plan remained valid for 37-months (until July 7, 2007) from the date of the mailing unless, prior to that date, the applicant either recorded by plat all land shown on the approved plans or submitted a request to extend the validity period. Attached, please find the applicant's timely request dated June 1, 2007 to extend the validity period for Preliminary Plan 120040420, (formerly 1-04042), The Quarry, for six months, until January 7, 2008. The extension is requested to afford the applicant adequate time to record the plat.

Pursuant to Section 50-35 (h)(3)(d) of the Subdivision Regulations, "the Planning Board may only grant a request to extend the validity period of a preliminary plan if the Board is persuaded that:

- i. delays, subsequent to the plan approval by the government or some other party, essential to the applicant's ability to perform terms or conditions of

the plan approval, have materially prevented applicant from validating the plan, provided such delays are not created by the applicant; or

- ii. the occurrence of significant, unusual, and unanticipated events, beyond applicant's control and not facilitated or created by applicant, have substantially impaired applicant's ability to validate its plan and that exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by applicant to implement the terms and conditions of the plan approval in order to validate its plan) would result to applicant if the plan were not extended."

The applicant's letter seeks extension based on governmental delays in approval of the associated site plan. Although the applicant's letter misstates several dates, the events outlined in the letter are substantially accurate, as discussed below.

Applicant's Position

The project and preliminary plans were approved on May 20, 2004. The associated Planning Board opinions were mailed on August 20, 2004 and June 7, 2004, respectively. Shortly after receipt of these approvals, the applicant's engineer began work on the site plan for this project. The site plan was submitted on March 24, 2005 and approved by the Planning Board on March 23, 2006. The resolution of approval was issued approximately six months later, on September 7, 2006. On January 5, 2007, the signature set of the site plan was submitted to staff. Following receipt of comments from staff, a revised signature set was submitted on April 3, 2007. The applicant received an additional set of staff comments on June 1, 2007, and the certified site plan was recently approved. Although the subdivision plat was submitted on December 18, 2006, it has not been scheduled for a hearing before the Planning Board.

The year-long span between submission of the site plan application and its approval by the Planning Board was an inordinate governmental delay that does not allow recordation of the plat before the plan expires.

Staff Position

The request for extension is based on unanticipated delays in approval of the associated site plan that have prevented timely recordation of the plat. It is staff's determination that the unanticipated delay summarized above is reasonable justification upon which the Planning Board can base the approval of the current extension pursuant to Section 50-35(h)(3)(d) of the Subdivision Regulations. Therefore, staff recommends that the preliminary plan be extended to January 7, 2008, to allow adequate time for all plans and documents to be completed prior to plat recordation.

Attachment:

Extension Request Letter dated June 1, 2007.

LYNOTT, LYNOTT & PARSONS, P. A.

ATTORNEYS AT LAW

11 NORTH WASHINGTON STREET

SUITE 220

JOSEPH A. LYNOTT
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June 1, 2007

The Honorable Royce R. Hanson, Chairman
Montgomery County Planning Board
Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20906

Re: Preliminary Plan: 04042
Name of Plan: The Quarry
Applicant: W.M. Rickman Construction Company LLC

Dear Mr. Chairman:

On behalf of the applicant, we respectfully request a six-month extension of the validity date of the Preliminary Plan.

The Board's Opinion of Approval of the Preliminary Plan was mailed on June 7, 2004. The Project Plan (#9-04004) was approved two months later on August 20, 2004. Shortly after receipt of these approvals, the applicant's architect, in conjunction with the applicant's engineer, commenced work on the construction plans and the Site Plan for the project.

The proposed Site Plan was submitted on March 24, 2005, and approved by the Board on June 10, 2005. The Resolution of Approval was not issued, however, until fifteen months later, September 7, 2006.

On January 5, 2007, the Signature Set of the Site Plan was submitted to the staff. Following receipt of the comments from the staff, a revised Signature Set was submitted on April 3, 2007. Today we received the staff's comments on our latest submission, and our engineer has begun to address the comments.

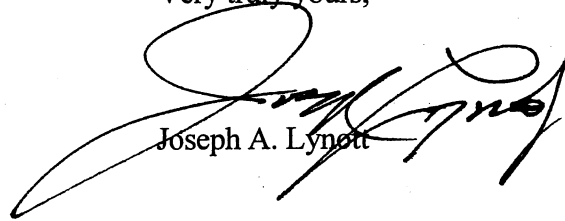
The subdivision plat was submitted on December 18, 2006, but will not be scheduled for hearing before the Board until the Board signs off on the Signature Set of the Site Plan.

LYNOTT, LYNOTT & PARSONS, P. A.

The Honorable Royce R. Hanson, Chairman
Montgomery County Planning Board
Maryland-National Capital Park & Planning Commission
June 1, 2007
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Thank you for your consideration of this request.

Very truly yours,



Joseph A. Lynott

JAL/bla

Cc: William M. Rickman, Jr.
Thomas Brault