



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

**MCPB
ITEM #
1/24/08**

DATE: January 11, 2008

TO: Montgomery County Planning Board

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

FROM: Richard Weaver, Planner Coordinator (301) 495-4544 *RW*
Development Review Division

SUBJECT: Request for an extension to the validity period – Preliminary Plan No. 12003003E– Ancient Oak West

Recommendation: Extend validity period to June 20, 2008

Discussion:

The subject preliminary plan was approved by the Planning Board on May 6, 2004 for one one-family residential lot located on the east side of Chestnut Oak Drive, approximately 475 feet south of Wye Oak Drive. The resolution reflecting the Planning Board's action was mailed on May 20, 2004. Pursuant to the conditions of approval, the preliminary plan remained valid for 37 months (until June 20, 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.

On July 26, 2007 the Planning Board considered a six month extension of the validity period from the June 20, 2007 to December 20, 2007. That extension was granted by the Planning Board.

Attached, please find the applicant's timely request for a second extension dated December 20, 2007 and updated by a second letter dated December 24, 2007 (Attachments 1 and 2). This is a request for another six month extension for Preliminary Plan 120030030, (formerly 1-03003), Ancient Oak West, until June 20, 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."

Similar to the Applicant's first request, the applicant's letter seeks extension based on certain unanticipated delays in preparation of the necessary plans by the applicant's plan preparer that have resulted in significant delays to the project, as discussed below.

Applicant's Position

Since approval of the preliminary plan on May 6, 2004, the applicant has been taking the steps necessary to record the plat. However, according to the letters of December 20 and 24, 2007 there have been continued unexpected health complications experienced by the engineer, Mr. Jerome Norris, that have delayed completion of the plat process. The initial request for an extension in June, 2007 was also based on health issues and the six month extension that was granted at that time was believed to be an adequate amount of time for Mr. Norris to recover from the health issues and process the plat. According to the December 20 and 24, 2007 letters, the health concerns continue to persist yet there is expressed optimism that the treatments are showing marked improvements in Mr. Norris's health. Mr. Norris has worked on the project since its inception and is the one person who knows its complete history and details. Therefore, the applicant continues to believe that it is important to allow time for Mr. Norris to complete his work on the plan, rather than hiring a different plan consultant.

Staff Position

The request for extension is based on unanticipated delays by the applicant's plan preparer that have prevented timely recordation of the plat. It is staff's determination that the unanticipated delay outlined in the applicant's letter and 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 June 20, 2008, to

allow adequate time for all plans and documents to be completed prior to plat recordation.

Attachments:

- 1) Extension request letter dated December 20, 2007
- 2) Extension request letter dated December 24, 2007.

J E R O M E J . N O R R I S A N D A S S O C I A T E S
L A N D P L A N N I N G - H O U S I N G C O N S U L T A N T S
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December 20, 2007

Montgomery County Planning Board
Montgomery County Department of Park and Planning
8787 Georgia Avenue
Silver Spring, Maryland 20910

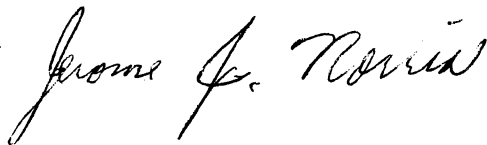
RE: Preliminary Plan No. 1-03003
Lot 37; Block C; Ancient Oak West

Gentlemen:

I hereby request that a second extension of approval for Preliminary Plan No. 1-03003 be granted due to the relapse of the extremely rare blood disease that caused the initial extension. I will have all the required paper work filed by Friday, December 28, 2007.

Thank you for your consideration.

Very truly yours,



Jerome J. Norris

J E R O M E J . N O R R I S A N D A S S O C I A T E S
L A N D P L A N N I N G - H O U S I N G C O N S U L T A N T S
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December 24th, 2007

Montgomery County Planning Board
Montgomery County Department of Park and Planning
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Preliminary Plan No. 1-03003
Lot 37, Block C, Ancient Oak West

Gentlemen:

On behalf of Robert L. Earp, owner of the above captioned property, it is hereby respectfully requested that a second extension of approval for Preliminary Plan 1-03003 be granted.

The illness that has incapacitated me for lengths on end still persists. Because of the rarity of the disorder, a treatment protocol has not been established. While, I have responded to emergency procedures, the responses have been incomplete and short lived. However, I can now function.

Mid December 2007, tests have shown significant improvement and have raised hopes that early January, 2008 tests will show continuous improvement. It is asked that Mr. Earp's patience be acknowledged and an extension of six months be granted, mainly for review and processing.

Thank you for your consideration.

Very truly yours,


Jerome J. Norris

Robert L. Earp
7820 C Airpark Rd.
Gaithersburg, Md. 20879
June 1, 2007

Montgomery County Planning Board
Montgomery County Department of Park and Planning
8787 Georgia Ave.
Silver Spring, Maryland 20910

Reference: Preliminary Plan No. 1-03003
Lot 37, Block C, Ancient Oak West

Dear Gentlemen,

I am writing to you to respectfully request that you grant an extension of approval for the Preliminary Plan No. 1-03003. The required plan will probably be submitted within the allotted period; however, additional time will be needed for review and processing. It has been suggested that I ask for a six month extension.

The Plans were not completed sooner because of the extended, acute illness suffered by Jerome Norris, who is the preparer of the necessary plans. The massive infection that he suffered from resisted treatment, lasting over six months, and left him with hearing loss. His illness came at a critical time. Mr. Norris has worked on this project since its inception and is the one person that knows its complete history and circumstance. Thus it is only fitting that he completes the plans. All the conditions set forth will be complied with.

Architectural plans have been completed and a builder has been selected. I am anxious to start construction as soon as possible. The proposed house will be for the use of me and my family. Words can not express the importance and the journey I have been on to making the reality of my dream house come true.

Thank you for your time and consideration.

Sincerely,



Robert L. Earp