



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

JUN 17 2009

**MCPB No. 08-156**  
**Preliminary Plan No. 120080300**  
**Kenilworth - North Chevy Chase**  
**Date of Hearing: December 11, 2008**

**MONTGOMERY COUNTY PLANNING BOARD**

**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 May 13, 2008, Sterling Mehring ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create two lots on 15,790 square feet of land located on the west side of Clifford Avenue, 410 feet north of Kenilworth Driveway ("Property" or "Subject Property"), in the Bethesda/Chevy Chase Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080300, Kenilworth - North Chevy Chase ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated November 25, 2008, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on December 11, 2008, 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

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Approved as to Legal Sufficiency: *DR by CS 6/5/09*  
 8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320  
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WHEREAS, on December 11, 2008, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Presley; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Presley voting in favor; Commissioner Robinson temporarily 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. 120080300 to create two lots on 15,790 square feet of land located on the west side of Clifford Avenue, 410 feet north of Kenilworth Driveway ("Property" or "Subject Property"), in the Bethesda/Chevy Chase Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to two lots for two one-family detached dwelling units.
- 2) The Applicant must comply with the conditions of approval for the final tree save plan. In addition, the Applicant must perform additional tree care measures, as recommended by an ISA-certified arborist and in coordination with MNCPPC Staff, on the adjacent Lot 8 (8914 Clifford Avenue) for the tree identified on the tree save plan as a 22-inch American Elm located on Lot 8. The Applicant must satisfy all conditions prior to any clearing, grading, or demolition on the site.
- 3) Prior to certification of the Preliminary Plan, the Applicant must revise the Preliminary Plan drawing to show a temporary construction easement over the area of driveway relocation shown on proposed Lot 43. This easement must be shown on the record plat.
- 4) Prior to initiation of any road construction activities, the Applicant must, with the consent of the owner of adjacent Lot 15, transplant existing landscaping, excluding the two existing 18-inch trees, from the right-of-way of Clifford Avenue onto the adjacent Lot 15 (8904 Clifford Avenue).
- 5) The Applicant must dedicate and the record plat must show dedication of approximately 12.9 feet of right-of-way along the Property frontage for Clifford Avenue to create 25.9 feet of right-of-way, as measured from the centerline.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated October 24, 2008.
- 7) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated November 5, 2008, unless otherwise amended.
- 8) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes.

- 9) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 10) The Applicant must satisfy provisions for sidewalk improvements on Clifford Avenue as required by the Village of North Chevy Chase prior to recordation of plats(s).
- 11) Before any building permit is issued, the applicable school facilities payment required by the 2007-2009 Growth Policy must be paid to MCDPS.
- 12) The record plat must show necessary easements.
- 13) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, 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 Bethesda/Chevy Chase Master Plan does not specifically address the Subject Property. The Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. Thus, in the case of the Subject Property, the Master Plan calls for retention of the existing R-60 zoning. The proposed subdivision complies with the recommendations adopted in the Master Plan in that it proposes one-family residential development consistent with surrounding development patterns and the current zoning designation. The proposed lots will be similar to surrounding lots with respect to dimensions, orientation, and shape, and the proposed residence will have a similar relationship to the public street and surrounding residences as existing residences in the area. The proposed subdivision will not alter the existing pattern of development or land use, therefore, the Preliminary Plan substantially conforms with the Master Plan recommendation to maintain the existing land use.

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

#### Roads and Transportation Facilities

The proposed subdivision does not generate 30 or more vehicle trips during the morning or evening peak hours. Therefore, the Application is not subject to Local Area Transportation Review. In addition, the proposed subdivision does not generate more than three new vehicle trips in the morning

or evening peak hours. Therefore, the Application is also not subject to Policy Area Mobility Review.

Access to the proposed lots will be provided by two separate driveways from Clifford Avenue. Although no sidewalks exist on Clifford Avenue, the low traffic volume on this street allows safe pedestrian use of the roadway. A sidewalk may be required by the Village of North Chevy Chase along the Property frontage on Clifford Avenue. Proposed vehicle and pedestrian access for the site will be safe and adequate.

#### Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and public sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the Property. The Application is not within a school moratorium area, but a school facilities payment must be made prior to issuance of building permits on the lots. Electrical, gas, and telecommunications services are also available to serve the Property.

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

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections, including the requirements for resubdivision as discussed below. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

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

The Subject Property was granted an exemption from submitting a forest conservation plan but a tree save plan is required.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept on October 24, 2008. The stormwater management concept includes water quality control and recharge via roof-top disconnect and permeable pavement. Channel protection is not required because the one-year post-development peak discharge is less than 2 cubic feet per second.

6. *The proposed lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood (as delineated by Staff in the Staff Report) ("Neighborhood"), as analyzed below.*

Size: The lots in the delineated Neighborhood range from 5,203 square feet to 20,031 square feet. Four of the lots are smaller than 6,000 square feet, twelve are between 6,000 and 10,000 square feet, and ten are between 10,000 and 20,031 square feet. Proposed Lot 42 is 6,789 square feet in size and Proposed Lot 43 is 7,143 square feet in size. The proposed lot sizes are in character with the size of existing lots in the Neighborhood.

Width: The lots in the delineated Neighborhood range from 52 feet to 177 feet in width. Three of the lots have widths of less than 60 feet, ten lots have widths between 60 and 80 feet, and the remaining thirteen lots have widths of more than 80 feet. Proposed Lot 42 has a width of 71 feet and Proposed Lot 43 has a width of 74 feet. The proposed lots will be in character with existing lots in the Neighborhood with respect to width.

Frontage: In a Neighborhood of 26 lots, lot frontages range from 25 feet to 177 feet. Four of the lots have frontages of less than 60 feet, fifteen lots have frontages between 60 and 100 feet, and the remaining seven lots have frontages of more than 100 feet. Proposed Lot 42 has a frontage of 71 feet, and proposed Lot 43 has a frontage of 74 feet. The proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Area: The lots in the delineated Neighborhood range from 1,584 square feet to 12,785 square feet in buildable area. Five of the lots have a buildable area less than 2,000 square feet, fourteen are between 2,000 and 5,000 square feet, and seven are between 5,000 and 12,785 square feet. Proposed Lot 42 has a buildable area of 2,397 square feet and Proposed Lot 29 has a buildable area of 2,630 square feet. The proposed lots will be of the same character as other lots in the Neighborhood with respect to buildable area.

Alignment: Twenty of the 26 existing lots in the Neighborhood are perpendicular in alignment, and the remaining six are corner lots. The two proposed lots are perpendicular in alignment. The proposed lots are of the same character as existing lots with respect to the alignment criterion.

Shape: Twenty of the existing lots in the Neighborhood are rectangular, four are irregularly shaped, and the remaining two are pipestem lots. The two proposed lots are rectangular. The shapes of the proposed lots will be in character with shapes of the existing lots.

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

7. *Trees and landscaping on adjacent properties will be appropriately protected.*

Owners of adjacent properties raised a concern at the Hearing that the proposed subdivision will negatively impact trees and landscaping on their properties. Specifically, the owner of adjacent Lot 8 (8914 Clifford Avenue) raised a concern that an existing elm tree on his property, the roots of which extend onto the Subject Property, would be damaged by construction of a new residence on proposed Lot 42. In response, a condition was added that requires the Applicant to provide additional tree care measures, at the direction of an ISA-certified arborist, for the elm tree on Lot 8. The owner of adjacent lot 15 (8904 Clifford Avenue) raised a concern that proposed street widening on Clifford Avenue would require the removal of landscaping that she planted in the right-of-way in front of her property. In response, a condition was added that requires the Applicant to transplant the existing landscaping, excluding the two existing 18-inch trees, from the right-of-way onto Lot 15. With the addition of these two conditions, the Planning Board finds that trees and landscaping on adjacent properties will be appropriately protected.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 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

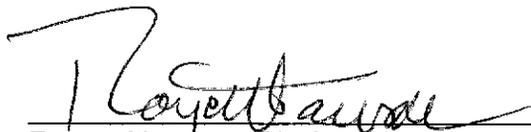
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board, and that the date of this Resolution is JUN 17 2009 (which is the date that this Resolution is mailed to all parties of record); and

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 Cryor, seconded by Commissioner Robinson, with Commissioners Hanson, Robinson, Cryor, and Presley voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, June 11, 2009, in Silver Spring, Maryland.

  
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Royce Hanson, Chairman  
Montgomery County Planning Board