



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OCT 2 2009

MCPB No. 09-119

Preliminary Plan No. 12004018E

Centerpark (Airpark North Business Park)

Date of Hearing: September 10, 2009

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

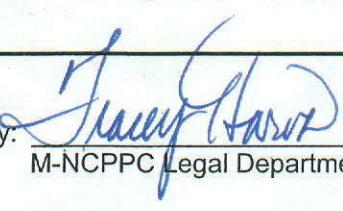
WHEREAS, on June 26, 2009, Webb Tract, Centerpark East/Centerpark West, L.L.C., ("Applicant"), filed an application for approval of a preliminary plan amendment that would reconfigure the approved lots and create two parcels and abandon two platted rights-of-way on 134.26 acres of land located opposite Alliston Hollow Way on the east side of Snouffer School Road ("Property" or "Subject Property"), in the Gaithersburg and Vicinity master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan amendment application was designated Preliminary Plan No. 12004018E, Centerpark (Airpark North Business Park) ("Preliminary Plan" or "Application"); and

WHEREAS, on July 15, 2004, the Planning Board held a public hearing on and approved Applicant's original preliminary plan 12004018 which, subject to certain conditions, was approved for up to 559,300 square feet of research and development office use, up to 247,626 square feet of business park use and up to 461,285 square feet of warehouse use, or a combination of non-residential development with an equivalent number of weekday morning and evening peak hour trips; and

WHEREAS, on May 27, 2007, the Planning Board granted amendment A to the preliminary plan which extended the time allowed to complete a parking lot as required as a condition of the original plan approval; and

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

WHEREAS, on December 4, 2008, the Planning Board granted amendment B to the preliminary plan which requested the abandonment of two public streets, Turkey Thicket Drive and Hubble Court, and their construction as private streets; and

WHEREAS, on June 5, 2008, the Planning Board granted amendment C to the preliminary plan which extended the time needed to construct the parking lot that was the subject of amendment A; and

WHEREAS, on December 4, 2008, the Planning Board granted amendment D to the preliminary plan which was a request to make minor changes to lot lines to accommodate the reconfiguration of a street shown on the approved plan. This amendment was considered simultaneously with amendment B; and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated August 31, 2009, setting forth its analysis, and recommendation for approval of amendment E, 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 September 10, 2009, 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

WHEREAS, on September 10, 2009, the Planning Board approved the Application, including abandonment of said rights-of-way, subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with a vote of 3-0, with Commissioners Hanson, Presley and Wells-Harley voting in favor and Commissioners Alfandre and Cryor being absent.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan Amendment No.12004018E to create two buildable parcels and abandon the platted rights-of-way for Challenger Court and Lilenthal Court on 134.26 acres of land located opposite Alliston Hollow Way on the east side of Snouffer School Road ("Property" or "Subject Property"), in the Gaithersburg and Vicinity master plan area ("Master Plan"), subject to the following conditions:

- 1) Applicant and future heirs and assigns continue to be bound by all conditions of approval for Preliminary Plan 12004018, including Amendment A, Amendment B, Amendment C, and Amendment D.
- 2) Prior to recordation of Plat(s), staff is to receive confirmation that all appropriate utilities consent to abandonment of platted public utility easements.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, 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 Board finds that the revision does not materially change the existing approvals for uses and square footage. The Property is currently limited to a total of 1,268,211 total square feet of development for uses allowed in the I-4 zone including up to 559,300 square feet of Research and Development; up to 461,285 square feet of Warehouse and up to 247,626 square feet of Business Park. This amendment makes no changes to these limitations.
2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

The development of this site continues to be bound to the approved square footages of the original approval. The finding of Adequate Public Facilities, including schools, fire and rescue access, roads, water and sewer and health clinics remains valid for the square footages approved.

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

The lots are of the appropriate dimensions with respect to size, shape, width and orientation to accommodate a single user of the property. The proposal conforms to all other applicable sections of the Subdivision Regulations

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

The original approval by the Planning Board included provisions to satisfy the requirement of Chapter 22A as shown on the approved preliminary forest conservation plan. The Property continues to be bound by the conditions of the approved forest conservation plan. Category I easements, in accordance with that plan, will be placed on the record plats.

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.*

This finding is based on the fact that the Montgomery County Department of Permitting Services approved a stormwater management concept for the entire site at the time of the original preliminary plan approval. This amendment does not change the elements of that concept.

BE IT FURTHER RESOLVED, that this Preliminary Plan Amendment will remain valid for 193 months from the date of mailing of the original Opinion which was July 26, 2004 as conditioned and as extended by subsequent actions by the County Council 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 Land Records of Montgomery County, Maryland 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 OCT 2 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

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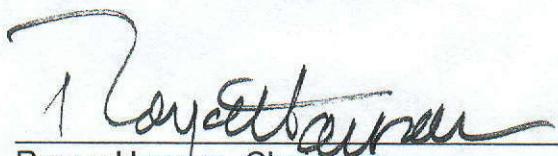
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Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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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 Wells-Harley, seconded by Commissioner Alfandre, with Chairman Hanson, and Commissioners Wells-Harley and Alfandre voting in favor of the motion, and Commissioners Cryor and Presley absent at its regular meeting held on Thursday, September 24, 2009, in Silver Spring, Maryland.



Royce Hanson
Royce Hanson, Chairman
Montgomery County Planning Board