



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAR 25 2010

MCPB No. 10-25
Preliminary Plan No. 120090360
Zion Road Property
Date of Hearing: March 4, 2010

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 26, 2009, D&A Enterprises ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 2.2 acres of land in the RE-2 zone, located on the west side of Zion Road, approximately 2000 feet north of the intersection with Brookeville Road ("Property" or "Subject Property"), in the Olney Master Plan area and also in the Agricultural and Rural Open Space (AROS) Functional Master Plan area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090360, Zion Road ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 19, 2010 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 March 4, 2010, 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 March 4, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Alfandre; with a vote of 4-0, Commissioners, Alfandre, Dreyfuss, Hanson and Wells-Harley voting in favor, with Commissioner Presley absent.

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, N.M.C.P.P.C. Legal Department 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board APPROVES Preliminary Plan No. 120090360 to create one lot on 2.2 acres of land in the RE-2 zone, located on the Subject Property, in the Olney Master Plan area and the AROS Functional Master Plan area, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one residential lot.
- 2) The proposed development must comply with all conditions of the preliminary forest conservation plan prior to recording the plat, and before the Montgomery County Department of Permitting Services issues any sediment and erosion control permits.
- 3) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) well and septic approval dated December 9, 2009. These conditions may be amended by MCDPS provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated March 12, 2009. These conditions may be amended by MCDPS provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated February 3, 2010. These conditions may be amended by MCDOT provided the amendments do not conflict with other conditions of the Preliminary Plan.
- 6) The certified Preliminary Plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and driveway will be determined during the building permit process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 7) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 8) Other necessary easements must be shown on the plat.

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 except as modified herein, 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 Olney Master Plan and the AROS Functional Master Plan.*

The Olney Master Plan (2004) recommends the continuation of the RE-2 zone for the Property and nearby properties in recognition of, and to accommodate, the existing and abiding development patterns in the area around the former Oaks Landfill. The Property is also within the AROS Functional Master Plan area (1980). The AROS plan recognizes that residential development, including rural communities and large lot development can be compatible land uses within the Agricultural Reserve if appropriately located. The existing lot patterns up and down Zion Road and in the general Mt. Zion neighborhood at the intersection of Zion and Brookeville Roads have been well established for decades. The large lot size and low intensity proposed by this development is appropriate for this area and consistent with the AROS plan vision. Staff finds that the Preliminary Plan is in conformance with both the Olney Master Plan and the AROS Functional Master Plan.

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

The proposed use will generate less than 3 vehicle trips during the morning or evening peak-hour, and therefore, the Application is not subject to Local Area Transportation or Policy Area Mobility Review. Sidewalks are not required in the RE-2 zone. Any pedestrian activity in this low-density area can safely be accommodated within the shoulders on Zion Road. Zion Road has sufficient capacity to accommodate the additional traffic generated by this new lot. The Board finds that the proposed vehicle and pedestrian access for the subdivision will be safe and adequate.

The Application was reviewed by all local utility agencies (gas, electric, and telecommunications), which have recommended approval of the plan because their respective utility, if locally available, can adequately serve the development. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. The Property is not subject to a School Facilities Payment because adequate capacity exists within the local school cluster.

- 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. The Board finds that the proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

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

The preliminary forest conservation plan proposes to permanently protect the existing 0.19 acres of forest on the Property which results in a 1.07 acre forest planting requirement. Of that 1.07 acres, 0.39 acres will be planted on-site adjacent to the existing forest and protected with a Category I conservation easement. The easement will be adjacent to an existing forest conservation easement on MNCPPC property to the north and west. The remaining 0.68 acres of forest planting requirement will be met in an off-site location to be determined at the time of building permit as part of the final forest conservation plan review. No specimen or large trees will be removed as part of this Application; therefore, a variance is not required. The Planning Board finds that the Preliminary Plan complies with Chapter 22A, the Montgomery County Forest Conservation Law.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.*

The Application has an approved stormwater management concept dated March 12, 2009. The concept consists of non-structural water quality control measures. Channel protection measures are not required because post-development flow does not exceed 2.0 cubic feet per second. The Board finds that the Application meets the requirements of Chapter 50-24(j) for stormwater management.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 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 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 MAR 25 2010 (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 Commissioner Presley, seconded by Commissioner Wells-Harley, with Commissioners Hanson, Wells-Harley, Alfandre, and Presley voting in favor of the motion, and with Commissioner Dreyfuss absent, at its regular meeting held on Thursday, March 18, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board