



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

MCPB No. 20-056
Preliminary Plan No. 120190170
Key Bridge Estates
Date of Hearing: July 2, 2020

JUL 09 2020

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on September 11, 2019, Key Bridge International Real Estate LLC ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create 5 lots and 1 outlot on 2.17 acres of land in the R-90 Zone, located at 1415 Smith Village Road ("Subject Property"), in the 1997 *White Oak Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120190170, Key Bridge Estates ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated June 22, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on July 2, 2020, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 120190170 to create 5 lots and 1 outlot on the Subject Property,

subject to the following conditions:¹

1. This Preliminary Plan is limited to five lots for five detached, single-family dwelling units and one outlot for stormwater management facilities and play equipment.
2. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty months from the date of mailing of this Planning Board Resolution.
3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated April 21, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated March 30, 2020 and incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated March 12, 2020 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Forest Conservation/Environment

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

7. The Limits of Disturbance (LOD) on the Final Forest Conservation Plan must be consistent with the LOD on the Sediment and Erosion Control Plan.
8. No clearing, grading, or any demolition may occur prior to receiving approval of the Sediment and Erosion Control Plan.
9. Prior to the start of any clearing, grading, or demolition occurring on the Property, the Applicant must receive approval from the M-NCPPC Office of the General Counsel of a Certificate of Compliance to use an off-site forest mitigation bank for mitigation credit as shown on the Final Forest Conservation Plan submitted with the Certified Site Plan.
10. The Certificate of Compliance must be recorded in the Montgomery County Land Records prior to any clearing, grading, or demolition occurring on the Property.
11. Mitigation for the removal of three (3) trees subject to the variance provision must be provided in the form of planting native canopy trees totaling 22 caliper inches, with a minimum planting stock size of three (3) caliper inches. The trees must be planted on the Subject Property, outside of any rights-of-way, or utility easements, including stormwater management easements. Adjustments to the planting locations of these trees are permitted with the approval of the M-NCPPC forest conservation inspector. The trees must be planted within six months of forest conservation inspector approval of tree protection fencing.
12. The Applicant must revise the Variance request to include the impacts to tree no. 1.

Transportation

13. The Applicant must dedicate and show on the record plat:
 - a. Twenty-five (25) feet of Right-of-Way (ROW) on Key Bridge Road (extended).
 - b. 18,640 square feet of ROW to construct a 45' radius cul-de-sac to properly terminate Key Bridge Road.

Record Plats

14. Except for demolition of existing structures, there shall be no clearing or grading of the site prior to the approval of the concurrently reviewed Certified Preliminary Plan and Final Forest Conservation Plan.
15. The record plat must show necessary easements.

16. The record plat must reflect all areas under common ownership.

Certified Preliminary Plan

17. The Applicant must show the following prior to certified preliminary plan.
- Show the parking area calculations for each lot. Parking for any vehicle or trailer in the area between the lot line and the front or side street building line must be on a surface parking area. The parking area shall not exceed 30% or 320 square feet, whichever is greater, consistent with the development standards in the R-90 Zone.
 - Revise the driveways on Lot 3 to minimize paving.
 - Straighten the alignment of the sidewalk connection to a 90-degree angle where it meets the street.
 - Provide an ADA accessible curb ramp.
 - Provide consistent limits of disturbance across all sheets of the Preliminary Plan and FFCP.
 - Revise the FFCP to show the use of a forest conservation bank instead of payment of fee-in-lieu.
 - Revise the FFCP to show only 22 caliper inches of variance mitigation trees and all necessary planting details.
18. The Applicant must include the stormwater management concept approval letter, other applicable agency letters, and Preliminary Plan Resolution on the approval or cover sheet(s) of the certified Preliminary Plan.
19. 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 hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and 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 Planning Board FINDS, with the conditions of approval, that:

- The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The proposed lots were reviewed for compliance with the dimensional requirements for the R-90 Zone, as specified in the Zoning Ordinance. The proposed lot dimensions, size, width, shape and orientation are appropriate for the location of the subdivision and this type of development and will meet all dimensional requirements for area, width, and setbacks in the zone. The application represents infill development in a well-established, medium density residential neighborhood. The proposal is consistent with the intent of the R-90 Zone, which states:

“to provide designated areas of the County for moderate density residential uses. The predominant use is residential in a detached house. A limited number of other building types may be allowed under the optional method of development.”

Pursuant to Section 59.4.4.8 of the current Zoning Ordinance, applicable development standards for a Standard Method development in the R-90 Zone are as follows:

R-90		Provided				
Lot Area	9,000sf	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5
		9,514sf	9,410sf	24,101sf	11,271sf	11,656sf
Principal Building Placement						
Lot Width at Front Lot Line / Front Building Line	25' / 75'	≥25' / 75'	≥25' / 75'	≥25' /75'	≥ /75'	≥/75'
Front Setback (Minimum)	30'	≥30'	≥30'	≥30'	≥30'	≥30'
Side Setback	Sides: 8' min. 25' total	8' or more each side	8' or more each side	8' or more each side	8' or more each side	8' or more each side
		25' or more total	25' or more total	25' or more total	25' or more total	25' or more total
Rear Setback	25'	≥25'	≥25'	≥25'	≥25'	≥25'
Building Height	35',	35' or less	35' or less	35' or less	35' or less	35' or less
Lot Coverage	30% (max)	30% or less	30% or less	30% or less	30% or less	30% or less

Lots 4 and 5 do not have frontage on a public or private road but share a driveway with Lot 3. Per Section 50.4.C.2.b.i:

“The Board may approve a maximum of 2 lots that do not abut a public or private road if the lots will be served by a private driveway that serves no other lots without frontage.”

The driveway that serves Lots 3, 4, and 5 meets this criterion.

Section 50.4.C.2.b.ii further stipulates:

“The access to lots with no road frontage must be adequate to serve the lots for emergency vehicles and for installation of public utilities. In addition, the lots must be accessible for other public services and not detrimental to future development of adjacent lands.”

The proposed development meets these criteria by proposing a 20' wide shared driveway, with an ingress/egress easement and utility easement to provide accessibility for emergency vehicles and public utilities. Furthermore, the proposed subdivision allows for future development of adjacent lands.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The Property is located in the 1997 *White Oak Master Plan* area. The Master Plan does not have specific recommendations for the Subject Property. However, the Plan does support the kind of development proposed in this Application. Land use goals of the Master Plan include: “Encourage the development of vacant parcels to be compatible with the surrounding neighborhoods and to achieve the goals and objectives of this Plan.” This goal is accomplished with the development of five single-family residences in this well-established residential neighborhood.

Thus, this application substantially conforms with the vision set forth in the 1997 *White Oak Master Plan*.

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

Schools

Overview and Applicable School Test

The applicable annual school test is the FY21 Annual School Test, approved by the Planning Board on June 25, 2020 and effective July 1, 2020. This project proposes 5 single family detached dwelling units, with a net of 4 single family detached dwelling units that are not age-restricted, and the proposed project is estimated to generate the following number of students:

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	4	0.203	0.812	0.103	0.412	0.144	0.576

TOTAL	4		0		0		0
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This project is estimated to generate no new elementary school students, no new middle school students, and no new high school students.

Cluster Adequacy Test

The project is located in the Blake High School Cluster. The student enrollment and capacity projections from the FY21 Annual School Test for the cluster are noted in the following table:

School Level	Projected Cluster Totals, September 2025			Moratorium Threshold
	Enrollment	Program Capacity	% Utilization	
Elementary	3,215	3,614	89.0%	1,122
Middle	1,525	1,475	103.4%	244
High	1,954	1,743	112.1%	137

The Moratorium Threshold identified in the table is the number of additional projected students that would cause the projected utilization to exceed the 120% utilization threshold and therefore trigger a cluster-wide residential development moratorium. As indicated in the last column, the estimated enrollment impacts of this application fall below the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

Individual School Adequacy Test

The applicable elementary and middle schools for this project are William T. Page ES and Briggs Chaney MS, respectively. Based on the FY21 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

School	Projected School Totals, September 2025				Moratorium Threshold	Estimated Application Impact
	Enrollment	Program Capacity	% Utilization	Surplus/ Deficit		
William T. Page ES	737	737	100.0%	0	148	0
Briggs Chaney MS	1,076	926	116.2%	-150	36	0

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and the school seat deficit meets or exceeds 110 seats for an elementary school or 180 seats for a middle school. If a school's projected enrollment exceeds both thresholds, then the school service area is placed in a residential development moratorium.

As indicated in the last column, the estimated enrollment impacts of this application fall below the moratorium thresholds for both William T. Page ES and Briggs Chaney MS. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by this project.

Analysis Conclusion

Based on the school cluster and individual school capacity analyses performed, using the FY2021 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this application.

Transportation

On-Site Vehicular Circulation

The Applicant proposes a publicly dedicated cul-de-sac extending from Smith Village Road, with a shared driveway providing access from the cul-de-sac to three single-family residential homes. In addition, the Applicant will pave Smith Village Road west of the Property, which provides access to four properties unrelated to this development.

Pedestrian and Bicycle Facilities

Currently, Smith Village Road is an open section with no sidewalks. Along the cul-de-sac, the Applicant will construct a five-foot sidewalk and a five-foot tree panel. No bicycle facilities are recommended for Smith Village Road in the Bicycle Master Plan.

Local Area Transportation Review (LATR)

The Institute of Transportation Engineers' Trip Generation rates are used to calculate the peak-hour trips generated by the proposed five single-family homes. Based on this projection, three trips are expected to be generated in the peak morning hour and five trips are expected to be generated in the evening peak hour. The site will generate fewer than 50 total person trips, and per the 2017 Local Area Transportation Review Guidelines, no traffic study is required.

Other Public Facilities

The proposed development will be served by public water and sewer systems. The Montgomery County Department of Permitting Services Fire Department Access and Water Supply Section has reviewed the application and has determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services including police stations, firehouses and health care are currently operating in accordance with the Subdivision Staging Policy and will continue to be sufficient following construction of the project. Electric, gas and telecommunications services are available and adequate.

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

A. Forest Conservation

The Board finds that as conditioned, the Final Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Final Forest Conservation Plan

The Applicant has submitted a Final Forest Conservation Plan with the Preliminary Plan and will meet the forest conservation requirements of 0.33 acres in an off-site mitigation bank.

B. Forest Conservation Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The Applicant submitted a variance request on April 5, 2020 to remove three (3) trees that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law. The submitted variance request missed one additional tree (no. 1) which is a specimen tree proposed to be impacted, but not removed. A corrected variance request adding the impacts to tree no. 1 must be submitted prior to approval of the Certified Preliminary Plan.

Unwarranted Hardship

The proposed development is in accordance with both the intent and recommendations of the White Oak Park Master Plan and R-90 zoning. While the Property is not constrained by environmental features, two of the trees are in the ROW that will be improved to provide access to the Property. The third tree is in the middle of the Property and will be

impacted by the demolition of the existing development. Denying the variance request would impinge on the Applicant's ability to develop the site at all. Thus, the Applicant has a sufficient unwarranted hardship to consider a variance request.

The Planning Board makes the following findings necessary to grant the Variance:

- 1. Granting the Variance will not confer on the Applicant a special privilege that would be denied to other applicants.*

The Applicant cannot construct the improvements in the ROW or commence demolition of the existing development without the approval of this variance. Thus, granting the variance will not confer a special privilege on the Applicant.

- 2. The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The requested variance is based on the locations of the trees, rather than on conditions or circumstances which are the result of actions by the Applicant.

- 3. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the proposed site design and constraints on the subject property and not as a result of land or building use on a neighboring property.

- 4. Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Applicant will mitigate for the three (3) trees proposed for removal as part of this development. Mitigation must be provided for removal of these trees by planting 3 native shade trees of at least three inches caliper, each, within the new development. This is based on Planning Department policy that requires replacement of variance trees at a rate of 1" replaced for every 4" removed, using replacement trees of no less than 3" caliper, to replace lost environmental functions performed by the trees removed. These mitigation plantings will provide sufficient tree canopy in a few years to replace the lost water quality

benefits of the variance tree being removed. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The Applicant received approval of their stormwater management concept from the Montgomery County Department of Permitting Services, Water Resources Section on March 30, 2020. The concept meets required stormwater management goals using a combination of ESD approaches including rain gardens, permeable paving, and microbioretenment areas. The Property is not subject to a water quality plan, and there are no floodplain requirements. The requirements of Chapter 19 for stormwater management are satisfied.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M*

Not applicable; the Applicant is not aware of any burial sites and the Property is not included in the Montgomery County Inventory.

7. *Any other applicable provisions specific to the property and necessary for approval of the subdivision are satisfied.*

Not applicable.

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 50.4.2.G), 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 in 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 in this matter, and the date of this Resolution is JUL 09 2020 (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

MCPB No. 20-056
Preliminary Plan No. 120190170
Key Bridge Estates
Page 12

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 Cichy, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy and Verma voting in favor, and Commissioner Patterson absent at its regular meeting held on Thursday, July 2, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board