



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

DEC 11 2014

MCPB No. 14-119
Preliminary Plan No. 11990204A
Llewellyn Fore
Date of Hearing: December 4, 2014

RESOLUTION

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

WHEREAS, after a hearing on February 25, 1993, the Planning Board approved Preliminary Plan No. 119902040, creating 71 lots on 178.05 acres of land on the east side of Layhill and Ednor Roads, and straddling the proposed extension of Norbeck Road in the RE-2C Zone, located at the southeast quadrant of the intersection of Norbeck Road and Layhill Roads, in the Cloverly Master Plan ("Master Plan") area, the relevant portion consisting of twenty-four (24) lots and dedicated rights-of-way for Llewellyn Manor Way and Bready Farm Court, all located south of Norbeck Road ("Subject Property"); and

WHEREAS, the State Highway Administration of the Maryland Department of Transportation ("SHA" or "Applicant") acquired the Subject Property to be used for environmental mitigation as a result of development of the Inter-County Connector; and

WHEREAS, on May 22, 2014, SHA filed an application under Section 50-51(c)(2) of the Subdivision Regulations for approval of an amendment to the previously approved preliminary plan for the abandonment and re-platting of the unimproved Llewellyn Manor Way (all of that portion to the south from the intersection with Norbeck Road) and Bready Farm Court rights-of-way within the Subject Property, consisting of approximately 2.8 acres ("Abandonment Area"); and

WHEREAS, Applicant's application to amend the preliminary plan was designated Limited Preliminary Plan No. 11990204A ("Amendment" 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 November 19, 2014, setting forth its analysis and

Approved as to
Legal Sufficiency

[Signature] 11/29/14

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recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 4, 2014, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board 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 as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 11990204A to abandon the rights-of-way consisting of that unbuilt portion of Llewellyn Manor Way (all of that portion to the south from the intersection with Norbeck Road) and Bready Farm Court rights-of-way within the Subject Property, subject to the following conditions:

- 1) Applicant must submit a minor subdivision record plat application to create one lot by i) consolidating the abandoned rights-of-way into the adjacent lots, and ii) further consolidating all of the 24 lots on the Subject Property into one lot meeting all requirements of Chapter 50 and Chapter 59 of the Montgomery County Code.
- 2) The Record Plat must reflect any necessary storm drain or stormwater management access easements.

BE IT FURTHER RESOLVED, that all other conditions of approval for Preliminary Plan No. 119902040 remain valid, unchanged and in full force and effect.

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:

1. *Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan and all findings not specifically addressed remain in effect.*
2. *The Abandonment Area, previously dedicated as a right-of-way for Llewellyn Manor Way and Bready Farm Court qualifies for abandonment pursuant to Sections 50-15(c) and 49-68 of the Montgomery County Code because it has not been improved or used for the purposes for which it was intended or dedicated, and is not necessary for anticipated public use.*

The Abandonment Area was created to provide frontage and access for twenty-four (24) of seventy-one (71) lots approved by the Planning Board for the Llewellyn Fore Subdivision. The northern portion of the Subdivision has been completed, while the southern portion did not proceed. The SHA has acquired all twenty-four (24) of the lots located on the south side of Norbeck Road to compensate for the environmental impacts of the Inter-County Connector. The SHA will eventually consolidate all lots and subdivision rights-of-way within the Northwest Branch Recreational Park Project with substantial frontage on Norbeck Road. The Montgomery County Departments of Transportation and Fire and Rescue Services have not objected to the abandonment. Abandonment of the right-of-way will have no adverse impacts on the abutting properties or public mobility in the area.

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

All conditions of the approved Forest Conservation Plan including creation of forest conservation easements have been satisfied on the north side of Norbeck Road. The approved Forest Conservation Plan did not require the creation of forest conservation easements on the Subject Property. The Subject Property is exempt from the requirement of submitting a Forest Conservation Plan under Section 22A of the Forest Conservation Law.

BE IT FURTHER RESOLVED, that this Amendment will remain valid for 60 months from the Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) of the approval and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Amendment 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 in this matter, and the date of this Resolution is DEC 11 2014 (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 Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-Gonzalez voting in favor at its regular meeting held on Thursday, December 4, 2014, in Silver Spring, Maryland.



Casey Anderson Chair
Montgomery County Planning Board