

# ATTACHMENT 5



## MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAY 24 2008

**MCPB No. 08-148**  
**Preliminary Plan No. 120061080**  
**Layhill View**  
**Date of Hearing: May 22, 2008**

### MONTGOMERY COUNTY PLANNING BOARD

#### RESOLUTION<sup>1</sup>

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 April 21, 2006, Mr. Roderick Loss, ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 2 lots on approximately 1.03 acres of land located on the future extension of Alderton Road approximately 850 feet southeast of Wagon Wheel Way ("Property" or "Subject Property"), in the Kensington-Wheaton master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No.120061080., Layhill View ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated May 9, 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 staffs of other governmental agencies, on May 22, 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

<sup>1</sup> This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to  
Legal Sufficiency: *Kathleen Y. Dool* 11/17/08

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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WHEREAS, on May 22, 2008 the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Robinson; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board APPROVES Preliminary Plan No. 120061080 to create 2 lots on 1.03 acres of land located on the future extension of Alderton Road approximately 850 feet southeast of Wagon Wheel Way, in the Kensington-Wheaton Master Plan area, 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 the Montgomery County Department of Permitting Services ("MCDPS") stormwater management approval dated December 24, 2007.
- 3) The Applicant must comply with the conditions of the Montgomery County Department of Transportation ("MCDOT") letter dated June 2, 2006, unless otherwise amended. This letter includes a requirement to record a covenant to fund a pro-rata share for the construction of Alderton Road.
- 4) No plat shall be recorded until such a time that Alderton Road right-of-way is dedicated, adjacent to the Property, by the development at Indian Spring (Preliminary Plan No. 120060510).
- 5) The record plat must show necessary easements.
- 6) 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 Master Plan does not specifically identify 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-200 zoning. In the Land Use and Zoning section of the Master Plan, the Property and surrounding development is identified as suitable for one-family detached housing. The Board finds that the proposed subdivision complies with the

recommendations adopted in the Master Plan in that it proposes one-family detached housing consistent with the current density of the neighborhood and the current zoning designation.

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

The Property will be served by private wells and public sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have 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. Electrical 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.*

The Application meets all applicable sections including Section 50-29(a) which speaks to the appropriateness of lots. The proposed lots will be modestly larger than the adjacent lots to the west and those that have been approved for the Indian Spring property (Preliminary Plan No. 120060510) to the south and east. There are three pipestem lots immediately north of the Subject Property on Alderton Road. The orientation of these lots is similar to that proposed in this Application. 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 site does not include any environmentally sensitive features and has no forest. Because of its size, it is exempt from the Forest Conservation Law.

- 5. The Board finds 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 MCDPS that the stormwater management concept plan dated December 24, 2007, meets MCDPS's standards.



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 the date of this Resolution is NOV 24 2008 (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 Robinson, seconded by Commissioner Cryor, with Commissioners Hanson, Robinson, and Cryor present and voting in favor of the motion, and Commissioners Alfandre and Presley abstaining, at its regular meeting held on Thursday, November 20, 2008, in Silver Spring, Maryland.

  
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Royce Hanson, Chairman  
Montgomery County Planning Board