



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

MCPB
Item #
1/4/07



MEMORANDUM

DATE: December 22, 2006

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

Cathy Conlon, Supervisor *CC*
Development Review Division

FROM: Richard A. Weaver, Coordinator *RAW*
Development Review Division

REVIEW TYPE: Amendment to a Preliminary Plan of Subdivision

APPLYING FOR: 15 One-family Detached Residential Lots

PROJECT NAME: Panagos Property
CASE #: 12000065A
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RE-1/R-200
LOCATION: In the southwest corner of the intersection of Willowbrook Drive and Bell Mill Lane

MASTER PLAN: Potomac
APPLICANT: Bells Mill, L.L.C.
ENGINEER: Haines Land Design, L.L.C.

FILING DATE: September 6, 2005
HEARING DATE: January 4, 2006

RECOMMENDATION: Approval to revise the previous conditions of approval as follows:

- 1) Approval under this preliminary plan is limited to fifteen (15) lots for fifteen (15) residential dwelling units.
- 2) The applicant shall comply with the conditions of approval of the amended preliminary forest conservation plan.
- 3) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan unless otherwise designated on the preliminary plan. The dedication shall be reflected on the record plat.
- 4) The applicant shall comply with the conditions of the MCDPS stormwater management approval dated June 29, 2006, unless otherwise amended.
- 5) The applicant shall comply with the conditions of the MCDPWT approval letter dated January 13, 2006, and as otherwise amended in the September 7, 2006 letter, unless further amended.
- 6) Common ingress/egress and utility easements shall be recorded over all shared access and reflected on the record plat(s).
- 7) The term "Access denied except at approved locations" shall be shown on the record plat along Bells Mill Road.
- 8) 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 opinion.
- 9) The record plat shall reflect other necessary easements.

SITE DESCRIPTION

The 11.89-acre property ("Subject Property" or "Property") is split zoned R-200 and RE-1 and is located at the southeast quadrant of the intersection of Bells Mill Road and unbuilt Willowbrook Drive, in the Potomac Planning Area (Attachment A). It is bound to the north by Bells Mill Road, to the east by homes on Great Arbor Drive, to the south by homes in Kentsdale Estates, and to the west by the unimproved Willowbrook Drive and homes in the Bells Mill Hamlet subdivision beyond. The property is generally rectangular in shape and falls in elevation from Bells Mill Road at its highest, down to the southern border at its lowest. The property currently has a large one family detached residence on it with a number of associated accessory buildings.

The area around the house has been maintained as manicured lawn for many years. Numerous large trees dot the landscape, with approximately 4.22 acres of the site classified as forest. The forest is located mostly in the southern portions of the Property where a small stream begins and flows off the property to the south.

Willowbrook Drive is a paper street that was identified in the previous Potomac Master Plan as a master plan right-of-way. The 2004 Potomac Master Plan amendment, however, removed the Willowbrook Drive as a road that would continue north to connect to Bells Mill Road. The subject preliminary plan shows the abandonment of that right-of-way.

Previous Planning Board Action

The Planning Board first saw this application on November 11, 1999 as Pre-Preliminary Plan 7-98039. At that hearing, issues regarding the use of the cluster option, access to Bells Mill Road, stormwater management, the extension of Willowbrook Drive and tree loss were discussed. The Planning Board did not object to a plan using cluster, and directed the Applicant to take all other issues raised at the hearing into account in preparing the preliminary plan.

The Planning Board also previously reviewed the subject application (1-00065) for a Preliminary Plan entitled "Panagos Property" on July 27, 2000. A copy of the Opinion for that Planning Board action is attached (Attachment B). At that hearing the Planning Board approved, with conditions, the request for 13 one family residential lots, including maintaining the existing house on the property with an extension of Willowbrook Drive to connect to Bells Mill Road. A copy of the approved preliminary plan is attached (Attachment C). At that hearing the Planning Board considered testimony from staff, the applicant, and neighborhood interests.

The Planning Board has also reviewed and approved three separate requests to extend the validity period of the original preliminary plan approval. The Plan is set to expire on September 27, 2007, unless the lots are successfully recorded by plat prior to this date.

PROJECT DESCRIPTION

This is an application to amend the approved preliminary plan. This application requests two additional lots above the previously approved 13-lot subdivision. To accomplish this, the Plan reconfigures the lot layout in the northwestern portions of the property (Attachment D). The potential for creation of two additional lots is the result of two significant actions that have occurred since the original approval by the Planning Board on July 27, 2000. The first occurrence is that the 2004 Potomac Master Plan removed the planned extension and eventual connection of Willowbrook Drive to Bells Mill Road. As with the previous plan approval, this plan amendment no longer needs to show the connection of Willowbrook Drive to Bells Mill Road. The area previously shown to be dedicated for Willowbrook Drive is now incorporated into portions of the proposed lots. The second occurrence since the Planning Board approval is that the original owner and applicant of the property, Mr. John Panagos, has passed away. His approved plan retained the existing house and surrounding lawn area, including accessory structures, on a lot much larger than the R-200 zoning requires. After the death of Mr. Panagos, the property was sold to the current applicant who does not wish to retain the house, thereby, freeing up area for development.

The amended plan requests approval of 15 lots, two more than the original approval. The applicant has revised the plan, but only elected to involve those lots in and around the existing house and along the previous Willowbrook Drive alignment. The eight lots in the southern and eastern portions of the Property remain in their previously approved configuration, although they are included in this application because they are part of the original approval.

The proposed plan shows one additional house fronting on the built portions of Willowbrook Drive, two homes accessing a newly constructed cul-de-sac terminus of

Willowbrook Drive, and four houses located on a shared driveway. Consistent with the subdivision to the west, the five lots with frontage on Bells Mill Road will access an internal driveway, with the rear of the proposed homes to Bells Mill Road. Staff and the applicant have attempted to preserve as much of the tree buffer along Bells Mill Road as possible to provide screening and privacy for the five lots. Note that the lots on the eastern portion of the approved subdivision access a cul-de-sac that connects to Bells Mill Road.

The southern portions of the site contain the headwaters of a small stream. The stream valley buffer and additional areas contiguous to the buffers are to be protected with Category I conservation easements as part of a cluster option development. The plan meets the requirements for forest conservation on-site and provides additional open space areas as required to justify the use of cluster. All homes will use public water and a sewerage system that is local to the Property and available for hook up.

ANALYSIS AND FINDINGS

Master Plan Compliance

The recently adopted Potomac Master Plan does not specifically identify the subject property for discussion but does give general guidance and recommendations regarding zoning and land use. The plan reconfirms the existing zoning and the residential land use consisting of one-family detached homes. The abandonment of Willowbrook Drive is recommended in the 2004 Potomac Plan. The proposed subdivision complies with the recommendations adopted in the Master Plan in that it is a request for residential development and carries through the abandonment of Willowbrook Drive. The plan also complies with the Zoning Ordinance development standards that are recommended in the master plan.

Transportation

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements. The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation Review.

Environment

Environmental Buffers

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for the subject site. Environmental Planning staff approved NRI/FSD 4-98268 on May 28, 1998. The site includes 4.2-acres of forest, individual trees, landscaped lawn, stream and stream buffer, and ephemeral swales. In addition, there is a stand of white pines, 8 to 12 inches in diameter that runs parallel to Bells Mill Road. This stand is not forest. The entire property is within the Cabin John Creek watershed which is classified as Use I waters. The entire stream buffer will be included in a Category I conservation easement and unforested portions of the buffer will be

planted.

Forest Conservation

When the Planning Board approved the preliminary plan creating the subdivision they also approved the preliminary forest conservation plan. This preliminary plan amendment includes a revision to the preliminary forest conservation plan. The revised plan shows the removal of 2.4 acres of existing forest, the preservation of 1.8 acres of forest, and the onsite planting of 1.2 acres of forest. The previously approved preliminary forest conservation plan showed the removal of 2.2 acres of forest and the retention of 2 acres of forest. The area to be planted includes unforested stream buffer and an area that was not previously forested. None of the 2.4 acres of forest to be removed is within the stream buffer.

The additional forest being removed as part of the amended preliminary forest conservation plan is forest in a public utility easement (PUE) and space needed for a storm drain. Although the original preliminary forest conservation showed retention of forest in the PUE, the utility companies prohibit forest conservation within those areas. The storm drain easement needs to be wider to provide sufficient space to install the storm drains. The amended forest conservation plan also indicates approximately 0.5-acres of additional onsite forest planting. Most of the additional planting occurs in the location of the existing house, which is now shown for removal with this amendment. The applicant will plant a combination of small (3/4 to 1 inch) trees and large (1.5 to 2 inch) trees in the planting areas. In summary, the revised forest conservation plan shows an increase of 0.2-acres of forest removal and 0.5 acres of additional onsite forest planting. The plan satisfies the requirements of the forest conservation law.

Tree Save

As previously mentioned, there is an existing stand of white pine trees along Bells Mill Road. The applicant's plan shows the retention of these trees, except for those that must be removed to provide access to the site for a driveway and utilities. The Montgomery County Department of Public Works and Transportation is requiring the applicant to construct the sidewalk along Bells Mill Road, although the adjoining properties along Bell Mill Road do not have sidewalks along their frontage. Because of the grade differences, DPWT and DPS have agreed to allow the sidewalk to be constructed within the existing paved shoulder or along the existing grass strip adjacent to the paved shoulder. Therefore, the white pines are unaffected. The applicant has agreed to construct this sidewalk.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot sizes, widths, shapes and orientation are appropriate for the location of the subdivision.

The lots meet all dimensional requirements for area, frontage, width, and setbacks established by these zones in the Zoning Ordinance. A summary of this review is included in

attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Cluster and Combined Cluster

The lots were reviewed for compliance with the dimensional requirements for the R-200 and RE-1 zones using the cluster and combined cluster option available to the Property pursuant to Section 59-C-1.5 and Section 59-C-1.526 of the Zoning Ordinance. The Plan conforms to the purpose and intent of the cluster and combined cluster requirements. Justification for the cluster option is outlined in the September 6, 2005 letter from the applicant (Attachment E) that details how the plan comports with the cluster and combined cluster purpose and intent. Staff agrees with the justification outlined in that letter. Specifically, staff has determined that the plan provides additional open space and opportunities to reforest areas of the site in excess of the minimum requirements established by the forest conservation law. The Plan provides for a higher level of compatibility with respect to the established cluster developments to the east and north of the Subject Property. The Plan provides for a wide forested buffer separating the proposed development from the RE-2 zoned, large lot subdivision to the south, thereby, enhancing compatibility along the differing zoning boundaries. The Plan continues an established lot pattern along Bells Mill Road where lots access internal road networks and have the rears of homes to Bells Mill Road, as in the Bells Mill Hamlet subdivision to the west. The Plan does not exceed the development density that would have been allowed had the two zones been developed separately. Staff finds that the Plan complies with all applicable sections of the Zoning Ordinance.

Citizen Correspondence and Issues

This application predated any specific requirements for meetings between the applicant and interested parties; however, written notice of the application and public hearing date was given to adjacent and confronting property owners, and local civic and homeowners associations. Considerable interest was generated by the original plan reviewed and approved by the Planning Board. Generally, the citizens were divergent in their thoughts on the extension of Willowbrook Drive. Those to the east were in favor of the road's eventual connection to Bells Mill Road, and those to the west were in opposition to the connection. As stated above, the 2004 Potomac Master plan removed the connection from the master plan road network. This Plan shows that Willowbrook Drive will terminate to the south of Bells Mill Road as a MCDPWT approved cul-de-sac.

The second area of concern raised during previous plan review regarded the loss of trees and runoff. The neighborhood has apparently come to enjoy the views of the expansive manicured grounds of this estate home. The property owners had allowed some areas to establish itself as forest. Staff believes that the use of the cluster option has successfully allowed an environmentally sensitive plan to move forward and be presented for Planning Board consideration. Additional areas for open space, and reforestation and forest preservation are being created on this Plan. As discussed above, the cluster plan also provides for increased compatibility for surrounding neighborhoods.

Runoff is being addressed by an approved MCDPS stormwater management concept that controls water quality and quantity. Sediment and erosion control measures are mandatory, and will be provided as part of the clearing and grading of the site.

No citizen correspondence has been received on the amended application.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance, and comply with the recommendations of the Potomac Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

- Attachment A – Vicinity Development Map
- Attachment B – Previous Planning Board Opinion
- Attachment C – Previously Approved Preliminary Plan
- Attachment D – Proposed Preliminary Plan
- Attachment E – Applicant’s September 6, 2005 letter
- Attachment F - Agency approvals

| Plan Name: Panagos Property | | | | |
|--|--|--|-----------------|-------------|
| Plan Number: 1200065A | | | | |
| Zoning: R-200/RE-1 | | | | |
| # of Lots: 15 | | | | |
| # of Outlots: 0 | | | | |
| Dev. Type: One Family detached | | | | |
| PLAN DATA | Zoning Ordinance Development Standard | Proposed for Approval on the Preliminary Plan | Verified | Date |
| Minimum Lot Area | 15,000 sq. ft. | All lots larger than minimum | RW | 12/22/06 |
| Lot Width | | | | |
| Lot Frontage | 25 ft. | Meets minimum | RW | 12/22/06 |
| Setbacks | | | | |
| Front | 40/25 ft. Min. | Must meet minimum | RW | 12/22/06 |
| Side | 15/10 ft. Min. | Must meet minimum | RW | 12/22/06 |
| Rear | 50 ft. min. from subd, boundary | Must meet minimum | RW | 12/22/06 |
| Height | 50 ft. Max. | May not exceed maximum | RW | 12/22/06 |
| Max Resid'l d.u. or Comm'l s.f. per Zoning | 15 dwelling units | 15 dwelling units | RW | 12/22/06 |
| MPDUs | N/A | | | |
| TDRs | N/A | | | |
| Site Plan Req'd? | No | | | |
| FINDINGS | | | | |
| <i>SUBDIVISION</i> | | | | |
| Lot frontage on Public Street | Yes | | RW | |
| Road dedication and frontage improvements | Yes | | Agency letter | 9/7/06 |
| Environmental Guidelines | Yes | | Staff memo | 9/21/06 |
| Forest Conservation | Yes | | Staff memo | 9/21/06 |
| Master Plan Compliance | Yes | | RW | |
| Other | | | | |
| <i>ADEQUATE PUBLIC FACILITIES</i> | | | | |
| Stormwater Management | Yes | | Agency letter | 6/29/06 |
| Water and Sewer (WSSC) | Yes | | Agency Comments | 10/7/05 |
| Well and Septic | N/A | | | |
| Local Area Traffic Review | N/A | | | |
| Fire and Rescue | Yes | | Agency letter | 6/7/06 |

PANAGOS TRACT (1-00065A)

Attachment A



Map compiled on October 03, 2005 at 11:53 AM | Site located on base sheet no - 214NW09

NOTICE

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

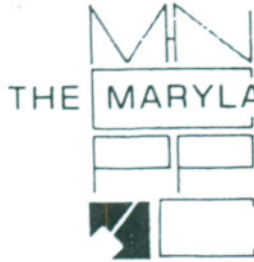
Key Map



Research & Technology Center



1 inch = 400 feet
1 : 4800



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

Attachment B

CORRECTED OPINION

**MONTGOMERY COUNTY PLANNING BOARD
OPINION**

Preliminary Plan No.: 1-00065
Project: Panagos Property
Date of Hearing: July 27, 2000

Action: **APPROVAL SUBJECT TO CONDITIONS.** (Motion to approve was made by Commissioner Bryant; duly seconded by Commissioner Holmes; with a vote of 4-0, Commissioners Bryant, Holmes, Hussmann and Perdue voting in favor; Commissioner Wellington necessarily absent.)

INTRODUCTION

On March 13, 2000, John and Mary Ann Panagos ("Applicant") filed a preliminary plan application seeking the creation of thirteen (13) lots on 11.89 acres of land in the RE-1 and R-200 (Residential) Zones under the optional cluster method of development. Pursuant to Section 59-C-1.532, footnote 6, of the Montgomery County Code, Chapter 59 ("Zoning Ordinance"), the application also requests a Waiver of the 50-acre minimum area of development required to use the cluster option in the RE-1 Zone. The application was designated Preliminary Plan No. 1-00065.

After due notice, the Montgomery County Planning Board ("Planning Board") held a public hearing on the application on July 27, 2000, in accordance with the requirements of Maryland Code Ann., Art. 28 ("Regional District Act"), the Montgomery County Code, Chapter 50 ("Subdivision Regulations"), and the Planning Board's Rules of Procedure. At the public hearing, the Planning Board heard testimony from its expert technical staff ("Staff"), the Applicant, neighboring property owners and community organizations, and received evidence into the record on the application.

In presenting the application to the Planning Board, Staff prepared packets of information including a Staff report, plan drawings, vicinity maps, aerial photographs and correspondence from the community. Staff distributed the information packets to the Planning Board and they are part of the record on the application.

THE SUBJECT PROPERTY

The subject property is located on the south side of Bells Mill Road, west of Great Arbor Drive, east of Cambridge Manor Court and abutting the Master Planned alignment of Willowbrook Drive. The site is split-zoned, with approximately 3.7 acres of the net tract area remaining after dedication located in the R-200 Zone (minimum lot size of 20,000 square feet) and approximately 7.4 acres of the net tract area located in the RE-1 Zone (minimum lot size of 40,000 square feet). The R-200-zoned property located to the northern, fronting on Bells Mill Road.

The property is improved with an existing house and outbuildings, located in the center of the site. Existing forest covers approximately 1.53 acres of the R-200 portion and 2 acres of the RE-1 portion of the property. Two intermittent streams originate in the southern portion of the site. The property lies within the Cabin John watershed.

To the north, across Bells Mill Road, the site is bordered by an existing community of single-family detached dwellings, which was constructed in the 1980s as an R-200/R-150 Zone combined cluster development. On the east, the site is bordered by another cluster development of single-family detached homes, which are zoned R-200 and were constructed on 10,000- to 14,000-square foot lots in the late 1960s and early 1970s. "Kentsdale Estates," a community of single-family detached dwellings zoned RE-2, is located south of the subject property. The master-planned alignment for Willowbrook Drive constitutes the western border of the site. West of the Willowbrook Drive alignment, the site is bordered by another split-zoned subdivision of single-family detached dwellings, with the lots along Bells Mill Road developed under the standards of the R-200 Zone and the lots to the interior along Cambridge Manor Court developed under the standards of the RE-1 Zone.

The subject property is located within the area covered by the 1980 Approved and Adopted Master Plan for the Potomac Subregion ("Master Plan"). The Master Plan identifies the property as single-family residential, split-zoned RE-1 and R-200. The Master Plan proposes Willowbrook Drive as a primary residential street connecting Democracy Boulevard with Bells Mill Road and, ultimately, with Tuckerman Lane, with the proposed right-of-way forming much of the western boundary of the subject property. The Master Plan is under review for revision. The Potomac Master Plan Advisory Group, which is reviewing the current draft Master Plan recommendations, has evaluated Willowbrook Drive, and supported continuation of the current Master Plan recommendation that Willowbrook Drive be extended.

The Applicant proposes the creation of thirteen (13) lots on 11.89 acres under the optional "cluster" method of development to allow the construction of twelve (12) new detached single-family dwellings. The proposal also includes the dedication of 0.73 acre along the western boundary of the subject property for the extension of Willowbrook Drive to Bells Mill Road. The existing home will be situated on an "estate lot" of 1.6 acres. Nine (9) proposed lots fronting on Bells Mill Road will range in lot size from 14,190 square feet to 28,095 square feet. The three (3) lots in the southwestern portion of the site each will exceed 20,000 square feet. Common open space will constitute approximately one-third of the property, including the forest conservation, reforestation and stormwater management areas. An additional 0.9 acre of reforestation will be located off-site. An on-site stormwater management facility, including a retention pond, will provide water quantity and quality control. Access will be provided via one individual and two common driveways connecting with Willowbrook Drive and one common driveway connecting with Bells Mill Road.

On November 11, 1999, the Planning Board considered a Pre-Preliminary Plan application for the subject property (No. 7-98039). The issues of concern raised at that hearing included the use of the cluster method of development, the dedication of the Willowbrook Drive right-of-way, forest preservation, stormwater management and driveway access to Bells Mill Road. The Planning Board agreed to the Applicant's submittal of a preliminary plan under the cluster option

and directed the Applicant to take the issues discussed at the hearing into account in preparing the Preliminary Plan.

THE SUBDIVISION CRITERIA

An application for subdivision requires the Planning Board to undertake its legislatively delegated authority under the Regional District Act and the Subdivision Regulations. The application must also meet the requirements of the Zoning Ordinance applicable to the subject preliminary plan.

Section 50-35 of the Subdivision Regulations provides the approval procedure for preliminary subdivision plans. After presentation of the plan to the Planning Board, the Planning Board must act to approve or disapprove the plan, or to approve the plan subject to conditions and/or modifications necessary to bring the plan into accordance with the Montgomery County Code and all other applicable regulations. The general provisions for lot design for a subdivision are set forth in Section 50-29 of the Subdivision Regulations. Lot size, width, shape and orientation must be appropriate for the location of the subdivision and for the type of use contemplated in order to be approved by the Planning Board. Lots must also abut a dedicated street or public road.

Section 59-C-1.5 of the Zoning Ordinance sets forth the purpose, description and requirements of the Optional Cluster Method of development and requires Planning Board approval of its use. According to Subsection 59-C-1.51, the purpose of the Optional Cluster Method of development is to encourage "the provision of community open space for active or passive recreation as well as the preservation of trees. The cluster method provides for flexibility in lot layout . . . while preserving the same limitations on density of dwelling units per acre as normally permitted in the respective zones; protecting the character of existing neighborhoods; and providing open space for common use."

The Planning Board may also approve the combination of two or more cluster developments pursuant to Section 59-C-1.526. Generally cluster developments must be in one zone, although the Board can allow two zones to be combined in a cluster application. Code § 59-C-1.526(b). The Code further requires that the total area of the two different zoned tracts meet the minimum acreage requirements for the largest minimum zone (Code § 59-C-1.526(b)(2)). In this case that minimum is 50 acres – however the Code allows the Board to waive that acreage minimum "upon a finding that the cluster development is more desirable for environmental reasons." Code § 59-C-1.532, footnote 6.

At the public hearing, Staff recommended approval of the Preliminary Plan and Waiver of the 50-acre minimum tract size, subject to conditions. Staff advised the Planning Board that the subject application conforms with the development standards for cluster development in the RE-1 and R-200 Zones, with the exception of the minimum area requirement for which a waiver is requested. Staff further advised the Planning Board that the subject application is consistent with the recommendations of the Master Plan and complies with the provisions of the Subdivision Regulations. The record on the subject application also includes uncontested information about the lot size, width, shape and orientation of the proposed thirteen-lot subdivision and the relationship of the lots to public roads. Finally, Staff noted that there is adequate road capacity for

the subdivision in this policy area, and the Local Area Transportation Review guidelines do not require a traffic study of a thirteen-lot subdivision generating fewer than 100 trips.

DISCUSSION OF ISSUES

Neighboring property owners and community groups submitted extensive correspondence and petitions into the record in opposition to the subject application. Several neighbors also testified at the public hearing. The neighbors contended that the cluster method of development is inappropriate for the site and that the extension of Willowbrook Drive to Bells Mill Road is unnecessary and inappropriate. They also expressed concerns about compatibility, access, destruction of forest and wildlife habitat, inadequate stream buffers and stormwater runoff. These issues are discussed in detail below.

Cluster Method of Development and Compatibility

At the public hearing, Staff testified that it had reviewed plans using the cluster and standard methods of development for the subject property. Staff testified that the proposed cluster plan would best serve the community interest because it achieves greater forest preservation, provides additional open space area to accommodate a more expansive Stormwater Management facility to address the communities concerns with water control problems and less grading and disturbance in environmentally sensitive areas. Staff explained that the cluster method of development provides greater control over the environmentally sensitive areas of the site, the tree save and reforestation areas, by placing them in common ownership rather than in private lots. Staff further testified that the proposed cluster development is compatible with surrounding existing development. Accordingly, Staff advised the Planning Board that the proposed combined cluster and the requested waiver of the minimum acreage requirement for the RE-1 Zone are appropriate for the development of the subject property.

The Applicant testified that it compared the type of development that could be achieved under the standard method in the R-200 and RE-1 Zones with development under the cluster method and concluded that use of the cluster method best addresses environmental concerns, that the proposed development makes a compatible transitions with surrounding neighborhoods and complements the existing estate on the site. The Applicant explained that development under the cluster method will allow greater tree preservation in both common areas and in Category I easements, and further provides for stream buffers and an environmentally sensitive Stormwater Management Plan. The Applicant characterized the subject property as an in-fill site that transitions between R-150, R-200, RE-1 and RE-2 Zones and is bordered on two sides by existing cluster subdivisions. In addition, the Applicant testified that the sizes of the lots in the northern and eastern portions of the site complement neighboring properties.

The Applicant further testified that, although the three lots in the southwestern portion of the site are smaller than the one-acre lots located across Willowbrook Drive, the proposed lots meet the RE-1 (Cluster) size requirements and back up to the landscaped and forested common area. Accordingly, the Applicant could have created three deeper one-acre lots, but believed that smaller private lots with a dedicated separate parcel for the common open space and forest areas are preferable for tree preservation purposes. Moreover, the proposed plan retains a significant

amount of forest in the southern portion of the property and provides additional buffering along the eastern border.

Neighboring property owners and community organizations submitted extensive correspondence into the record and testified in opposition to the use of the cluster method for the proposed development. They contended that combining the cluster developments is inappropriate because the tracts do not share a common boundary sufficient to provide a unified development. They testified that use of the cluster method would not be more desirable for environmental reasons, but would be worse in terms of loss of trees and animal habitat, grading in and disruption of sensitive areas and stormwater runoff. They testified that the use of the cluster method allows smaller lots which provide less absorption area and require construction of a larger stormwater retention pond, which in turn requires more grading and causes greater tree loss. In addition, the neighbors questioned whether the proposed plan provides the common areas required in cluster developments for aesthetic and recreational purposes.

The neighbors also disagreed with the Applicant as to the compatibility of the proposed development with nearby and adjacent existing development. They testified that the adjoining neighborhoods to the southeast are distinguished by their forested character and the way the modest houses are nestled into the woods. They testified that the size of the footprints and the height of the proposed houses are not compatible with the size and height of the existing houses. They also expressed concern about the disproportionality between the size of the proposed houses and the lots. The neighbors further testified that some of the houses are located so close to the stormwater retention pond, stream buffers and property lines that there is not enough room for sufficient buffering, especially along the southeastern boundary of the property. In addition, the neighbors testified that the proposed ½-acre lots are not compatible with the one- and two-acre existing development to the west and south. They are concerned that the proposed development will adversely affect their views, security and property values and the character of the surrounding neighborhoods. Finally, one neighbor requested that, if the subdivisions are combined to meet the cluster minimum area requirement, the Forest Conservation and reforestation area be made accessible to the adjoining community.

In rebuttal, the Applicant showed a Standard Method Plan with the same number of lots and contended that the proposed cluster development is far superior in environmental protection. The Applicant testified that the cluster development has less impervious area, saves more trees, includes Stormwater Management and mitigates other impacts as much as possible. Regarding the setbacks from the houses on the adjoining properties to the east, the proposed houses will be set back further than the existing houses.

In response to a question from the Board about the need for the waiver request, Legal Staff explained that the Zoning Ordinance allows the combination of cluster developments in different zones, but then requires that the total area meet the largest minimum area requirement for cluster development in those zones. In this case, the RE-1 Zone has the larger minimum area requirement, which is 50 acres. However, in Section 59-C-1.532, footnote 6, the Zoning Ordinance also allows the Planning Board to waive the minimum area requirement "upon a finding that the cluster development is more desirable for environmental reasons." In response to additional

questions from Commissioners, Legal Staff advised the Planning Board that cluster developments separated by a street may be combined. Staff noted that the subdivisions located directly north and east of the subject property are cluster developments. Staff further explained that it viewed the subject plan as a continuation of the adjoining cluster development to the east, which it used for comparison purposes. Staff also used the subdivision to the north for comparison, but only as to setbacks from Bells Mill Road.

Extension of Willowbrook Drive

Staff testified that the subject application includes the dedication of the Willowbrook Drive right-of-way from just north of Cambridge Manor Court to Bells Mill Road, consistent with the Master Plan recommendation. Staff further testified that the Montgomery County Department of Public Works & Transportation ("MCDPW&T") has conditioned its approval of the subject plan on a requirement that the Applicant institute an escrow agreement covering the construction of the adjacent portion of Willowbrook Drive (prior to which it may obtain only three building permits). Staff explained that Willowbrook Drive currently is a discontinuous street with two segments missing between Democracy Boulevard and Bells Mill Road. The right-of-way dedication for one of the missing segments is included in the subject application. The dedication for the other remaining right-of-way, the segment connecting with Democracy Boulevard, was included in Preliminary Plan Application No. 1-97056 (Kentsdale Estates), which was approved by the Planning Board in 1997 and revisited in June 2000.

Staff advised the Planning Board that the residents of the neighborhoods surrounding the subject property disagree as to whether the right-of-way should be extended. Staff further explained that, in preparation for the pending Master Plan update, the Potomac Master Plan Advisory Group has discussed this issue and concluded that the Master Plan recommendation should not be changed.

In addition, in response to inquiries received by Staff and flyers distributed in the community, Staff advised the Planning Board that the subject application does not deal with Willowbrook Drive north of Bells Mill Road. Staff further noted that there are no plans to widen Bells Mill Road to a four-lane highway. Instead, Staff has sought improvements along the Bells Mill Road right-of-way, which may include a sidewalk or a demarcation for a sidewalk or bikepath.

Several neighbors and community groups testified and submitted petitions into the record in opposition to the extension of Willowbrook Drive from Cambridge Manor Court to Bells Mill Road. They described Willowbrook Drive as a quiet, narrow residential street with frequent turns and elevation changes. They expressed concern that if Willowbrook Drive becomes a through street, it will also become a short cut, which will change the character of the road and the neighborhood and adversely affect the safety of pedestrians and children. They contended that although the Master Plan recommends the connection of Willowbrook Drive from Democracy Boulevard through to Tuckerman Lane, the neighborhood has developed differently than anticipated and events have occurred to render that recommendation no longer appropriate. They explained that Willowbrook Drive is discontinuous north and south of Bells Mill Road and is likely to remain discontinuous to the north. Construction of one of the northern segments of the road requires an expensive bridge

to cross a stream valley at Buck Branch Park and Montgomery County has no plans to build that bridge. Another segment of the road must cross a culvert. The neighbors also testified that the existing sections of Willowbrook Drive have not been improved to Montgomery County's standards for a primary residential road. Moreover, they contended that the Willowbrook Drive connection from Democracy Boulevard to Bells Mill Road is unnecessary because there are already three connecting roads in the site vicinity (Stapleford Hall Drive, Democracy Court and Gainsborough Road).

Regarding the concerns of Stapleford Hall Drive residents about traffic on their street, the neighbors noted that the pending connection of the southern portion of Willowbrook Drive through to Democracy Boulevard would alleviate some of the traffic on Stapleford Hall Drive. Finally, the representative of the Neighborhood Preservation Group suggested that the subject portion of Willowbrook Drive could be constructed terminating in a cul-de-sac that could later be opened if the northern segment is ever built.

Two neighboring property owners and the Contemporaries-in-the-Park Citizens Association submitted correspondence in support of the extension of Willowbrook Drive. They explained that providing alternative routes is beneficial and, in this case, will reduce traffic on Stapleford Hall Drive and Gainsborough Road.

Access and the Use of Common Driveways

At the public hearing, Staff and the Applicant testified that they, together with MCDPW&T, had reviewed several access alternatives for the subject property, including individual driveways, shared driveways and construction of a new public street interior to the site. They explained that the alternatives were considered with regard to tree preservation, Stormwater Management and road safety. Staff also explained that the use of single-loaded driveways to service individual homes is discouraged and access is restricted along Bells Mill Road, which is a primary street. In addition, although MCDPW&T usually allows only four (4) lots on a private driveway, five (5) lots are permitted in certain circumstances, such as the environmental sensitivity of the subject property. Therefore, they concluded that grouping the five lots in the southeastern portion of the site and combining their access at a properly-sighted driveway location on Bells Mill Road would minimize grading, disturbance and forest clearing and best serve community interests. Access is also combined for the existing house and the three lots located in the northern portion of the site, east of the Willowbrook Drive extension and backing up to Bells Mill Road. These four lots will be serviced by a private driveway leading to Willowbrook Drive. The three homes in the southwestern portion of the site fronting on Willowbrook Drive directly across from Cambridge Manor Court will also share access. The three lots were proposed with individual driveways, but MCDPW&T is requiring the Applicant to combine the driveways to one access point. Finally, the lot on the west side of the Willowbrook Drive extension will be accessed via Willowbrook Drive because it has more frontage along that road and the driveway can be located further from the intersection.

Several neighboring property owners and community organizations submitted correspondence into the record and testified at the public hearing as to their concerns about the proposed use of common driveways. The neighbors testified that Staff and the Applicant had not

given any explanation of the circumstances that would justify making an exception to MCDPW&T policy to allow five lots to share a common driveway. Other neighboring property owners expressed concerns about the proximity of the private driveway in the southeastern corner of the site to the intersection of Bells Mill Road and Great Arbor Drive. They also expressed their opinion that visibility is limited on Bells Mill Road because of a hill just west of the proposed driveway.¹

Forest Conservation and Stream Buffers

At the public hearing, Staff and the Applicant testified that forest conservation was a major consideration in developing and reviewing the subject preliminary plan. Staff explained that the use of the cluster option, common driveways and smaller lot sizes maximizes the forest conservation area. Staff testified that the recommended conditions of approval of the Preliminary Forest Conservation Plan require site inspections prior to, during and after construction to ensure that the areas identified for forest conservation will remain undisturbed. Staff also noted that it will review a supplemental landscaping plan and possible additional plantings. In addition, recommended condition of approval (1)(c) requires the relocation of the stormwater management access road to decrease the road length and allow more area for reforestation.

The Applicant agreed with Staff's recommendation and stated that it is working with the Montgomery County Department of Permitting Services ("MCDPS") to accomplish the relocation of the stormwater management access road. However, the Applicant requested that the recommended condition be modified to add "if acceptable to MCDPS" to enable the Applicant to work out a solution with MCDPS and Staff.

In their written and oral testimony, several neighboring property owners and community groups stated their strong objections to the proposed plan because of the tree loss that will result. They contended that the total of thirteen (13) houses and extensive paving for driveways are too much development for the forested site. They explained that a significant portion of the site contains large stands of mature oak and hickory trees, which provide a forest canopy that must be preserved in compliance with Montgomery County Forest Conservation Law. They further testified that the trees are part of the contiguous forest that joins Buck Branch Park and Cabin John Park and provides much needed wildlife habitat. Some of the neighbors contended that there should be a substantial tree buffer along the eastern boundary of the property to ensure the retention of the mature trees and preserve the wooded character of the adjoining neighborhood. They advocated the extension of the existing 50-foot Category I Conservation Easement that the Planning Board established in 1984 on the two parcels located immediately south of the subject property. Several neighbors suggested that the forest buffer should be 100 feet wide to

¹ Some of the neighbors also testified that Staff and the Applicant had not justified a waiver of the public road frontage requirement. In response to the neighbors' testimony and questions from the Commissioners, the Applicant and Legal Staff explained that a waiver of the frontage requirement was not requested and is unnecessary because all of the proposed lots have frontage on public roads.

compensate for the smaller lots. They testified that it would be difficult to enforce tree preservation on private lots, especially when the new homeowners want to landscape their yards and add amenities. Some neighbors also expressed concern that the Applicant will pay a fee rather than save trees and that part of the reforestation area will be located off-site. They suggested that decreasing the size of the "estate lot" might result in more tree preservation or reforestation on-site.

In addition, several neighbors disagreed with the Applicant's characterization of the two streams on the site as "ephemeral". They explained that the streams are an integral part of the Cabin John Watershed. They also noted that the streams have caused erosion on the site and downstream properties and contain water during even the driest summers. They further contended that the development plan should include 125-foot buffers for the streams.

In rebuttal, the Applicant testified that, although some specimen trees will be lost, the intent is to save as many trees as possible. The Applicant further testified that the stream hierarchy is correct and has been accepted by M-NCPPC, Montgomery County and the Army Corps of Engineers under these agency standards, the streams have been classified as ephemeral where there are white oaks growing because that would not occur in intermittent or perennial streams.

In response to the neighbors' testimony and questions from the Commissioners, Staff explained that the 50-foot forest buffer was included in one of the subdivisions located south of the subject site to ensure tree preservation and compatibility with adjoining properties where side yards abutted rear yards. The 50-foot buffer was included in the other subdivision (Kentsdale Estates) because of concerns about the impact of the proposed sewer and water line extensions and driveway locations on existing trees. Staff testified that extending the 50-foot buffer north through the subject site would impact the two houses in the southeastern corner which abut the 40-foot building restriction line. Staff also noted that the Applicant tried to include all of the reforestation area on the site, but was unable to do so. Moreover, fee-in-lieu of reforestation is not accepted in Montgomery County and the subject application does not include such a fee.

Regarding the adequacy of the stream buffers, Staff testified that the subject plan applies the appropriate buffers. Staff advised the Planning Board that the stream locations and buffer requirements were determined by field evaluation with the Applicant and MCDPS. Existing stream flows, drainage swales, slopes and vegetation were studied to determine where the streams start and where they are ephemeral (carry water only during storm events).

Stormwater

At the public hearing, Staff testified that the proposed plan will not exacerbate existing drainage problems on downstream properties, but is likely to improve existing conditions by reducing stormwater runoff downstream of the subject site. Staff noted that the proposed plan is the result of several site visits and reviews with MCDPS of alternative stormwater management concepts.

The Applicant testified that it worked with Staff and MCDPS to create a stormwater management plan that will provide environmentally sensitive on-site management of water quantity

and quality (with the only stormwater control device in Buck Branch). The MCDPS-approved concept will control stormwater runoff generated by the proposed development, the pre-developed condition and ½ of the contiguous rights-of-way. Therefore, the subject Preliminary Plan will provide additional protection for the stream system and decrease stormwater discharge onto downstream properties that are experiencing erosion under existing conditions.

Several neighbors testified regarding their concerns about stormwater runoff and the proposed Stormwater Management facility. They expressed concern that tree removal and loss, grading, paving for driveways and the inadequate conveyance of stormwater to the retention pond will increase stormwater runoff onto and erosion on adjoining and downstream properties. In addition, they noted that construction of the proposed Stormwater Management facility will destroy over one acre of existing forest. One neighbor also noted concerns about the open culverts and the lack of fencing around the stormwater pond. She suggested that the Planning Board should require underground Stormwater Management.

In rebuttal, the Applicant stated that the proposed dam is necessary to control runoff generated by the site and from adjoining roads. The Applicant also explained that MCDPS has concurred with the Applicant's assessment that a catastrophic dam breach would not impact downstream properties. In addition, Staff testified that underground stormwater storage was investigated, but not recommended, because the adverse impacts caused by the grading and subterranean disruption would outweigh the benefits.

FINDINGS

After review and consideration of the evidence of record, including testimony given at the public hearing, the Planning Board finds that Preliminary Plan No. 1-00065 is in accordance with the Subdivision Regulations, the Zoning Ordinance and the Regional District Act. Based on the testimony and evidence contained in the record, the Planning Board finds that: (1) the proposed lots are appropriate with regard to lot size, width, shape and orientation for the location of the subdivision and the contemplated residential use; (2) the proposed lots will abut public roads; (3) the Preliminary Plan meets the development standards of the RE-1 and R-200 (Cluster) Zones; (4) the Preliminary Plan is in accordance with the Master Plan; and (5) the site is adequately served by public facilities. The Board further notes that its review is premised on the subdivision layout, and that it has no jurisdiction in this case to review house footprints or building size.

The Planning Board further finds that the proposed conditions, as modified, will ensure the appropriate use of the subject property and adequate access and road improvements, forest conservation measures, stormwater management and buffering. Therefore, the Planning Board adopts Staff's recommended conditions, as modified.

Upon consideration of all the evidence presented and Staff's recommendation, the Planning Board finds that use of the Optional Cluster Method of development is preferable to standard method development for the subject property for tree preservation, stormwater management, common open space and buffering purposes. In addition, the Board specifically finds - based on

the Staff and Applicant testimony given and the alternative layouts presented – that the optional method allows for more community open space and clearly enhances tree preservation.

Further, in addition, taking into consideration that the subject property is split-zoned and bordered by cluster subdivisions to the north and east, the Planning Board finds that development as a combined cluster pursuant to Section 59-C-1.526 of the Zoning Ordinance is appropriate. The Planning Board grants a Waiver of the 50-acre minimum area requirement pursuant to Section 59-C-1.532, footnote 6, of the Zoning Ordinance, as requested by the Applicant, because upon consideration of all of the conflicting testimony and evidence presented with respect to environmental considerations, on balance the Board finds that the waiver clearly will allow for more effective protection of the environmentally sensitive areas of the site, particularly of trees.

The Planning Board further finds that the proposed cluster development is compatible with surrounding existing development. The site is bordered by cluster subdivisions with comparable lot sizes and setbacks on the north and east. Regarding the size of the three (3) lots proposed for the southwestern portion of the subject property, the Planning Board agrees with Staff and the Applicant that the lots could have been enlarged by adding part of the adjacent common area to each lot, but finds that the Zoning Ordinance goals are better met by including more of the forested area in common ownership. Based on the testimony from Staff, forested area that remains in common ownership is more likely to be preserved as forested area than forest that lies within the privately owned lots.

In addition, the Planning Board finds that the proposed conservation, reforestation and landscaping areas will provide sufficient buffering between the proposed development and the existing houses to the south and east.

Regarding the proposed extension of Willowbrook Drive from Cambridge Manor Court to Bells Mill Road, the Planning Board has weighed the conflicting testimony from community groups and individuals regarding traffic and safety regarding the extension of Willowbrook Drive through to Tuckerman Lane, and weighed it against testimony from other members of the community who favor the road connection. The Planning Board expressly finds that the proposed Willowbrook Drive extension conforms to the recommendations in the current Master Plan and found no evidence in the record to render the Master Plan recommendation irrelevant. See § 50-35(e) of the Montgomery County Subdivision Regulations. Moreover, the Planning Board has consistently found that connectivity is an essential part of building communities that is desirable even when the immediate residents prefer not to be connected and/or when the proposed road is redundant. Therefore, the Planning Board finds that the right-of-way dedication is appropriate and Willowbrook Drive should be extended to Bells Mill Road.

In addition, taking into consideration the findings and recommendations of Staff and MCDPW&T regarding access, the Planning Board finds that the proposed common driveways best serve the goals of tree conservation, stormwater management and road safety. The Planning Board further finds that the combined access for the five lots in the southeastern portion of the site is appropriate. Moreover, the Planning Board finds that the use of combined access driveways does not require a waiver, because all of the lots have frontage on public roads.

Regarding the neighbors' concerns about environmental impacts, the Planning Board recognizes and affirms the important environmental goals of protecting the forest and intermittent stream resources on the site. The Planning Board also agrees with Staff and community testimony that tree conservation easements on private land are difficult to enforce and tend to be less effective than easements held in common ownership. Accordingly, the Planning Board finds it desirable to include as much forest conservation and reforestation area in common ownership as possible. The Planning Board further finds that the designation of the southern portion of the site as a forest conservation area under the control of the homeowners' association will help to preserve much of the existing forest on the site and provide a significant buffer for the RE-2 zoned properties to the south. In addition, the Planning Board accepts the determination of Staff and MCDPS that the stream classifications are correct and the appropriate buffers have been applied. Moreover, the Planning Board finds that the Applicant's compliance with Conditions #1 and 5 will ensure that forest conservation and stream buffer requirements are met. Condition #1 requires compliance with the preliminary forest conservation plan in accordance with the standards of the Forest Conservation Law, and the Board finds that the Forest Conservation Plan as approved meets the standards and requirements set forth in the Forest Conservation Law. Condition #5 provides for the delineation of the conservation easement on the record plats. The Planning Board therefore adopts Conditions #1 and 5 and finds that the proposed plan meets all applicable forest and stream buffer requirements and will provide adequate environmental protection.

Finally, regarding stormwater management, the Planning Board accepts MCDPS' determination that the Stormwater Management Concept meets MCDPS' standards and finds that the subject application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. In addition, based on the information presented, the Planning Board finds that the proposed cluster development will not exacerbate existing stormwater drainage problems on downstream properties, and in fact will provide additional management controls.

CONCLUSION

Based on the testimony, evidence and exhibits presented, as well as the contents of the Preliminary Plan file, the Planning Board finds Preliminary Plan No. 1-00065 to be in accordance with the Subdivision Regulations of the Montgomery County Code and the provisions of the Maryland Code Ann., Art. 28. Therefore, the Planning Board approves Preliminary Plan No. 1-00065, subject to the following conditions:

1) Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant or its successor in title must meet all conditions either prior to recording of the final record plat or prior to MCDPS issuance of sediment and erosion control permit, as appropriate. As part of the final Forest Conservation Plan the Applicant or its successor (as the case may be) must abide by the following:

- a) provision for on-site inspections of the forest retention areas, reforestation areas and limit of disturbance areas prior to, during and after construction.

- b) approval of landscape plan.
- c) relocation of stormwater maintenance access from Willowbrook Drive to common driveway off Bells Mill Road per Montgomery County DPS approval.
- d) stormwater maintenance access currently shown on the preliminary plan is to remain undisturbed.

2) All road rights of way shown on the preliminary plan shall be dedicated by the applicant, unless designated on the preliminary plan.

3) All roads shown on the preliminary plan shall be constructed by the applicant to the full width mandated by the Potomac Subregion Master Plan, and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan "to be constructed by (other)" are excluded from this condition.

4) Access and improvements, as required, to be approved by MCDPW&T prior to recording of plats.

5) Record plats to reflect delineation of a conservation easement over the stream valley buffer, tree preservation and reforestation areas.

6) Common ingress/egress easement for Lots 6-10 to be referenced and noted on record plat.

7) Prior to recording of plats, submit for technical staff review and approval, applicable Home Owners Association documents, including reference to "denial of access" along frontage lots not used for access.

8) Access to Bells Mill Road and Willowbrook Drive are limited to the areas shown on the approved preliminary plan. Record plat and HOA documents to reference "denial of access" statement along the lot frontage not used for access.

9) Other necessary easements.

10) This Preliminary Plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.

The Adequate Public Facilities Review for this preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.



LEGEND

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| --- | EX. GAS LINE |
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| --- | PROJ. GRADE |
| --- | PROJ. ELEVATION |
| --- | PROJ. PROTECTANT |
| --- | PROJ. WATER |
| --- | PROJ. SEWER |
| --- | PROJ. FENCE |
| --- | PROJ. DRIVEWAY |
| --- | PROJ. ROAD |

SITE AREA TABULATION

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| GROSS AREA OF PRELIMINARY PLAN | 184.6 AC |
| TOTAL EXISTING IMPROVEMENTS | 11.5 AC |
| TOTAL EXISTING OPEN SPACE | 173.1 AC |
| AREA OF EXISTING PAVED DRIVEWAY | 1.2 AC |
| AREA OF EXISTING PAVED ROAD | 3.2 AC |
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STAGING SEQUENCE/DEVELOPMENT PROGRAM

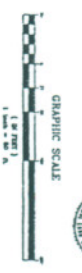
1. INITIAL STAGING CONTAINS THE PROPOSED DEVELOPMENT PROGRAM
2. PHASE 1: COMPLETION OF EXISTING AND PROPOSED DRIVEWAYS
3. PHASE 2: COMPLETION OF EXISTING AND PROPOSED DRIVEWAYS

- GENERAL NOTES**
- 1) TOTAL AREA OF SITE IS 184.6 AC.
 - 2) TOTAL AREA OF EXISTING IMPROVEMENTS IS 11.5 AC.
 - 3) TOTAL AREA OF EXISTING OPEN SPACE IS 173.1 AC.
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SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE PLAN SHOWS HEREON HAS BEEN PREPARED IN ACCORDANCE WITH THE SUPERVISOR REGULATION OF HONORABLE COUNTY, MD.

John R. Smith
 Licensed Professional Surveyor
 No. 12345678
 State of Maryland



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| <p>PRELIMINARY PLAN PROJECT SHOWS HEREON IS A PRELIMINARY PLAN</p> | |
| <p>PANAGOS TRACT</p> | |
| <p>HAINES LAND DESIGN 1000 BELLS HILL ROAD POTALOMAC, MD 20854</p> | |
| <p>JOHN & MARY ANN PANAGOS 8000 BELLS HILL ROAD POTALOMAC, MD 20854</p> | |
| <p>DATE: 10/15/2010 TIME: 10:00 AM DRAWN BY: JRS CHECKED BY: JRS SCALE: AS SHOWN</p> | |

100085



HAINES LAND DESIGN LLC

Date: September 6, 2005

To: M-NCP&PC
Development Review Division
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Attention: Mrs. Cathy Conlon

**Re: Panagos Tract
Preliminary Plan Amendment
Previous MNCP&PC Preliminary Plan 1-00065
Justification for Combined Cluster Development
HLD No. 98-033D**

Dear Mrs. Conlon:

We have reviewed the proposed amended subdivision plan for conformance with the Montgomery County Zoning Ordinance and the requirements specified in Sections 59-C-1.5 Cluster Development and 59-C-1.526, Combined Cluster Development. The proposed cluster plan conforms to the purpose and intent of the cluster development and the combined cluster development requirements of the Zoning Ordinance. The plan features result in a development that is environmentally more desirable than could otherwise be achieved. As indicated below we address each of the cluster standards.

Section 59-C-1.51 Purpose and Description

- The proposed subdivision plan amendment will preserve the character of the existing neighborhood that includes other cluster developments while providing for comparably sized new lots, passive open space and preservation of trees. The plan proposes new lot sizes compatible with and reflective of the adjacent R-200 lot sizes.
- The cluster plan includes a community open space that is to remain as a forest conservation area for wildlife and for passive recreational use. The recreation guidelines indicate that the adequacy test for 15 units will result in a demand of single digits for the various age levels and separate active recreational facilities are not required for subdivisions containing less than 25 single family homes.
- The plan conforms to the requirements of Section 59-C-1.522. The development will be connected to a community water supply and sewer system, and is presently classified in water category 1 and sewer category 3.
- The plan conforms to the requirements of Section 59-C-1.523. The gross area of the tract is 11.89 acres, with no requirement to deduct land as indicated on the master plan of highways as a right-of-way with a width of 100 feet or more, nor does the tract include

any 100-year flood plain areas. In addition, no land is to be dedicated for school or park sites. The plan amendment proposes 15 lots and conforms with the maximum number of dwelling units permitted per acre of usable area in the RE-1 (one unit per acre) and R-200 (two units per acre) zones.

- The plan reserves 3.67 acres of land to be used solely for storm water management facilities and common open space, which will inure to the benefit of future property owners within the subdivision. The common open space will be maintained by a Home Owner's Association (HOA), which will be created upon completion of the development and sale of the individual lots.

Section 59-C-1.526 Combined Cluster Development

- The amended subdivision plan is a logical and compatible extension of cluster development since it is adjacent to the "Red Coat Woods" subdivision along Great Arbor Drive. Red Coat Woods is an existing R-200 cluster development, approved by Preliminary Plan 1-66200 and recorded in Plat Book 86 as Plat 9052.
- The amended subdivision plan is a logical and compatible extension of an existing cluster development since it is confronting the "Fox Hills of Potomac" subdivision along Bells Mill Road. Fox Hills of Potomac is an existing R-150/R-200 cluster development, approved by Preliminary Plan 1-82173 and recorded in Plat Book 137 as Plat 15854.
- In order to completely protect all of the stream buffers through reforestation in the RE-1 Zone, a waiver from the requirements of Section 59-C-1.532 is appropriate.
- The subject property is within the RE-1 and R-200 Zones, each of which has provisions for cluster development, and complies with the following conditions:
 1. The subject property is a split zoned single tract of land of sufficient size to provide a unified development;
 2. Because the cluster development is more desirable for environmental reasons, i.e. protection of the stream valley and protection and preservation of existing forested areas, the tract area requirements of § 59-C-1.526(b)(2) of the Zoning Ordinance may appropriately be waived by the Planning Board;
 3. The proposed use for the subject property is for one-family, detached dwellings, which are a permitted use in both the RE-1 and R-200 Zones.
 4. The total number of proposed lots does not exceed those permitted if the property were to be developed in accordance with the separate zoning categories.
 5. The amount of green area in the combined development exceeds the total amount that would be required if the component areas of the subject property were developed as separate tracts of land.
- The plan will retain the existing mature trees to the maximum extent reasonable and proposes to retain the evergreen trees along Bells Mill Road that will continue to provide site screening to developed lots fronting on the property. Conservation easements shall be created for the forest area to be saved in the development of the project.
- The clustering of the proposed lots and the location of the lots provides for additional open space that buffers the adjacent developments to the south and the east while maintaining and protecting a large forested area and the stream buffer.

Mrs. Cathy Conlon

September 6, 2005

Page 3 of 3

- The planned forest conservation area will retain portions of the existing forest and provide a reforestation area within and adjacent to the stream buffer. Most of the sensitive slopes and areas adjacent to the ephemeral streams are within the designated open space area.

In consideration of your offices prior comments and concerns regarding the layout and orientation of the homes on the previous subdivision review for the proposed lots we offer the following:

- The homes on lots 53, 54, 55 & 57 are oriented to face the proposed private common driveway to create an enclave of homes with common front door orientation in order to take advantage of a common courtyard arrangement with access of the new cul-de-sac for Willowbrook Drive.
- The arrangement and orientation of homes shown on the amended plan for lots 53, 54, 55 & 57 is similar to the condition of lots 23, 24, 25, 26, 27, 28 & 11 in the "Bells Mill Hamlet", (BMH) subdivision west of the proposed Willowbrook Drive cul-de-sac. It appears that individual driveway access was denied to lots 23, 24, 25, 26 & 27 (BMH) that have a common property line with the right-of-way of Bells Mill Road. The homes on lots 23, 24, 25 & 26 (BMH) "front on" and are served by a common driveway off of Cambridge Manor Court and have their back yards facing Bells Mill Road.
- The intent of this plan is to retain the existing evergreen screening along Bells Mill Road for the side and rear yard buffer of the homes proposed on lots 51-55 with the additional and reinforcement plant screening buffer as depicted on the landscape and the forest conservation plan. The existing evergreen trees and additional landscape screening will retain the existing character of the property from Bells Mill Road and provide an adequate buffer for the rear yards of lots 51-55. The conditions of the screening to be retained and proposed are similar to that on lots 24, 25 & 26 (BMH) which is quite effective for the rear yards of the homes.

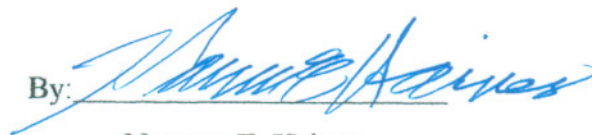
We hope this letter provides you with the information necessary to recommend this plan for approval to the Planning Board.

Please call if you have any questions or need additional information.

Sincerely,

Haines Land Design, LLC

By:



Norman E. Haines

cc: Mr. Daniel Demeria, Bells Mill LLC
Steve Orens, Esquire, DuFour & Orens
Ken Ellis, P.E., Adtek Engineers

| | | | |
|-------------------------------|---------------|---------|--------------|
| Post-it [®] Fax Note | 7671 | Date | # of pages 2 |
| To | Mark Afetterk | From | Sarah Nasid |
| Co./Dept. | | Co. | |
| Phone # | | Phone # | |
| Fax # | | Fax # | |



Attachment F

DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

Arthur Holmes, Jr.
Director

September 7, 2006

Mr. Steve Orens
4920 Elm Street, Suite 200
Bethesda, Maryland 20814

Dear Mr. Orens:

Thank you for your letter of July 19, 2006 concerning the construction of a sidewalk along the south side of Bells Mill Road in connection with and adjacent to the pending Preliminary Plan for the Panagos subdivision. As previously discussed, I have finally been able to look at the entire record on the matter and have personally visited the site.

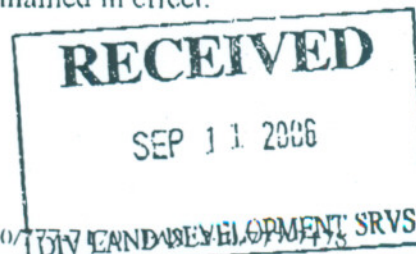
The official Department's record on the matter starts with a letter from Mr. John Clark, then Director of the Office of Project Development, dated December 31, 1998. The letter dealt with the Department's formal comments to the staff of the Planning Board for the Pre-Preliminary Plan for the Panagos Tract. I am attaching that letter for your reference, as it was not included in the attached documents you transmitted to me. (Attachment I.)

Items number 6 and 14(B) in the letter, discuss the requirement for the construction of the sidewalk along Bells Mill Road. At that time, there was insufficient information on the application, and therefore our staff suggested two possible options, depending on the information that would be later provided at the Preliminary Plan stage:

- Either a sidewalk within the public right of way (with the possible loss of trees) or
- Construction of the sidewalk within a Public Improvement Easement, outside of the right of way, limits to be determined to avoid the loss of major trees.

In a second pre-preliminary plan letter (dated November 12, 1999), we noted that "the applicant may want to increase the width of the Public Utilities Easement (PUE) along Bells Mill Road, in order to preserve the existing row of pine trees along the site frontage."

The requirement for the sidewalk was re-stated in the formal letter of July 21, 2000 (item 6) on the Preliminary Plan. The same letter discusses the applicant's request for a deferral of the construction of the sidewalk and our Department's opposition to such a request. The last departmental letter on the Preliminary Plan Amendment for the subdivision, dated January 13, 2006 made it clear under item 1, that our year 2000 requirements remained in effect.



Office of the Director

101 Monroe Street, 10th Floor • Rockville, Maryland 20850-2540 • 240/777-6339
Located one block west of the Rockville Metro Station

DIV LAND DEVELOPMENT SRVS

The letter from Mr. Simpson dated May 12, 2000 that you refer to, was just a simple clarification as to the meaning of "necessary dedication for the future widening of Bells Mill Road in accordance with the master plan". That letter had nothing to do with the requirement for the construction of a sidewalk; and therefore, the issue was not addressed in the letter.

Based on the evidence in our files, I respectfully disagree with your assertion that DPWT has had an inconsistent position on the requirement for the construction of the sidewalk along Bells Mill Road. Every official document shows the consistency of the Department's position requiring the construction of the sidewalk. Furthermore, our letters indicate significant willingness on the part of my staff to develop a flexible engineering solution which meets your client's desire to minimize impact on the existing trees while achieving their legal obligation to install the required sidewalk.

At the earlier meeting we had on the matter, we mentioned that there are two current studies under way for the construction of bikeways along Falls Road and along Seven Locks Road. My staff did not state that this sidewalk would become a part of those bikeway systems. We stated that in the future, sidewalk connections to those bikeways would provide for continuity of pedestrian movement. You asked in your letter to be educated on the issue. Both of the studies are in the approved latest County's Capital Improvements Program, as shown attachment 2. Both of the studies are under way in this Department.

Based on all evidence in the files and my personal visit to the site, I must conclude that the requirement for the construction of a sidewalk along Bells Mill Road has been consistently the position of the Department. I also agree that the sidewalk can be built within the public right of way, in which case your client may lose some trees. But it would seem to me to be far better for your client to dedicate a Public Improvement Easement (and grant a wider Public Utility Easement) on which the sidewalk could be constructed, meandering through the trees so as to avoid the loss of the larger trees.

As you may know, County Executive Duncan has made pedestrian safety one the key transportation initiatives that we must pursue. By copy of this letter to Robert Hubbard, Director of DPS, I am formally informing him of the Department's opposition to any sidewalk waiver for the construction of the sidewalk, as we find that the construction of the sidewalk along this Primary street is desirable to provide safe access for pedestrians, in accordance with Section 49-43 (b) of the County Code.

In conclusion, I am unable to support your waiver request.

Sincerely,

Arthur Holmes, Jr.
Director

cc: Robert Hubbard, Director, DPS
Greg Leck, DPWT

bcc: Sarah Navid, DPS ✓

12/19/2006 15:24 13012169649



DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

Arthur Holmes, Jr.
Director

January 13, 2006

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-00065A
Amendment to Panagos Tract

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated 9/8/05. This plan was reviewed by the Development Review Committee at its meeting on 10/11/05. We recommend approval of the plan subject to the following comments:

- All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.
1. All comments of our detailed review letter on preliminary plan 1-00065 dated 7/21/2000 remain in effect unless specifically changed below.
 2. Record plat to reflect denial of access along Bells Mill Road.
 3. Full width dedication and construction of the proposed interior public street (Willowbrook Drive), terminating in a standard cul-de-sac.
 4. In accordance with Section 50-35(n) of the Montgomery County Code, we recommend the Montgomery County Planning Board require the applicant to construct an off-site private sidewalk and dedicate required easement to connect Willowbrook Drive with Bells Mill Road.
 5. Public Improvements Agreement (PIA) will be an acceptable method of ensuring construction of the required public improvements within the County right of way. The PIA details will be determined at the record plat stage. The PIA will include, but not necessarily be limited to, the following improvements:



Division of Operations

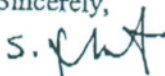
101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
240/777-6000, TTY 240/777-6013, FAX 240/777-6030

Ms. Catherine Conlon
Preliminary Plan No. 1-00065A
Date January 13, 2006
Page 2

- A. Construct a private five (5) foot wide concrete sidewalk between Willowbrook Drive and Bells Mill Road, if required as an off-site amenity by the Montgomery County Planning Board.
- B. Construct the cul-de-sac at the end of Street Willowbrook Drive as shown on the preliminary plan.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Sam Farhadi, P.E., Senior Planning Specialist
Traffic Safety Investigations and Planning Team
Traffic Engineering and Operations Section

Enclosures 0

m:/subdivision/farhas01/preliminary plans/1-00065A, Panagos Tract.doc

cc: Norman Haines, Haines Land Design LLC
Daniel Demeria, Bells Mill LLC
Joseph Y. Cheung; DPS Right-of-Way Permitting & Plan Review
Christina Contreras; DPS Right-of-Way Permitting & Plan Review
Sarah Navid; DPS Right-of-Way Permitting & Plan Review

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PAGE 06

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DEPARTMENT OF PERMITTING SERVICES (DPS)
MONTGOMERY COUNTY FIRE AND RESCUE SERVICE (MCFRS)
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850
240-777-6200

Code Modification No: M-2006-073

Paragos Tract
Willowbrook Dr.


Your modification request is approved as submitted with the compensatory items listed in the letter from Mr. Haines and additional conditions.

The area referenced in the modification is for the roadway to lots 46 thru 50. The roadway and turnaround shall be capable of supporting the load of the apparatus and any curbing for the circle shall be mountable.

An order must be obtained for the fire lanes through the fire department. Ensure that the fire lane signs on the circle will not interfere with the apparatus's turning area.

The 150 foot reach to an exterior door from the roadway is approved based on anticipated code change with the adoption of the 2006 code by the state.

DECISION: Approved


Battalion Chief Michael Donahue
Office of Fire Code Enforcement, MCFRS

7 June 2006
Date



**THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION**

Department of Park & Planning, Montgomery County, Maryland
8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Cathy Conlon, Supervisor, Development Review

FROM: Mark Pfefferle, Planning Coordinator, Environmental Planning Division

DATE: September 21, 2006

SUBJECT: Preliminary Plan 120000065A
Panagos Property

The Environmental Planning staff has reviewed the preliminary plan referenced above. Staff recommends approval of the amended preliminary plan of subdivision and the amended preliminary forest conservation plan with the following conditions:

1. Compliance with the conditions of approval of amended preliminary final forest conservation plan.
2. Prior to approval of the final forest conservation plan, the applicant shall schedule a field meeting with appropriate staff from M-NCPPC, Department of Public Works and Transportation, and the Department of Permitting Services to determine an appropriate route, that minimizes tree loss and tree damage, for the sidewalk along Bells Mill Road.

BACKGROUND

The 11.89-acre property is located at the southeast intersection of Bells Mill Road and unbuilt Willowbrook Drive, Potomac Maryland. The property is rectangular in shape and falls from Bells Mill to the south portion of the property. In a previous decision the Planning Board agreed not to make the southern connection of Willowbrook Drive to Bells Mill Road. This preliminary plan amendment increases the density by one lot and removes the Willowbrook Drive connection at Bells Mill Road from the plan.

Environmental Buffers

A Natural Resource Inventory/Forest Stand Delineation was submitted for the subject site. Environmental Planning staff approved NRI/FSD 4-98268 on May 28, 1998. The site includes 4.2-acres of forest, individual trees, landscaped lawn, stream and stream buffer, and ephemeral swales. In addition, there is a stand of white pines 8 to 12 inches in diameter that run parallel to Bells Mill Road. This stand is not forest. The entire property is within the Cabin John Creek watershed and is classified as Use I waters. The plan indicates that the entire stream buffer will be included in a category I conservation easement and unforested portions of the buffer will be planted.

Forest Conservation

When the Planning Board approved the preliminary plan creating the subdivision they also approved the preliminary forest conservation plan. With the preliminary plan amendment the Planning Board is asked to approve the revised preliminary forest conservation plan.

The preliminary forest conservation plan shows the removal of 2.4 acres of existing forest, the preservation of 1.8 acres of forest, and the onsite planting of 1.2 acres of forest. The previously approved preliminary forest conservation plan showed the removal of 2.2 acres of forest and the retention of 2 acres of forest. The area to be planted includes unforested stream buffer and an area that was not previously forested. None of the 2.4 acres of forest to be removed is within the stream buffer.

The increase in forest removal in the amended preliminary forest conservation plan is forest in a public utility easement (PUE) and additional space needed for a storm drain. The first preliminary forest conservation showed the retention of forest in a PUE. The utility companies prohibit overlapping forest conservation and PUEs and require those areas to be cleared of all trees. The storm drain easement needs to be wider to provide sufficient space to construct and lay the storm drains. Both of these activities require removal of more forest than was previously approved. The amended forest conservation plan also indicates approximately 0.5-acres of additional onsite forest planting than what was previously approved. Most of the additional planting occurs in the location of the existing house, which is now shown for removal with this amendment. The applicant will plant a combination of small (3/4 to 1 inch) trees and large (1.5 to 2 inch) trees in the planting areas.

In summary, the revised forest conservation plan shows an increase of 0.2-acres of forest removal and 0.5 acres of additional onsite forest planting.

Tree Save

As previously mentioned, there is an existing stand of white pines trees along Bells Mill Road. The applicant desires to retain the trees and submitted a plan showing the retention of those trees except for those that must be removed to provide access to the site for a driveway and utilities. The Montgomery County Department of Public Works and Transportation is requiring the applicant to construct the sidewalk along Bells Mill Road. Because of the grade differences between the roadway elevation and the base of the white pine trees either all pine trees must be removed or they will be severely impacted by the grading to construct the sidewalk. The adjoining properties along Bell Mill Road do not have sidewalks along their frontage. There is a possibility the applicant could weave the sidewalk through the trees. This would require some tree removal and specialized tree protection in order to minimize tree loss. The applicant and various County agencies conduct a field meeting to locate the sidewalk along Bells Mill Road to minimize tree loss and damage prior to approval of the final forest conservation plan.

RECOMMENDATION

Environmental Planning recommends approval of the preliminary plan of subdivision amendment with the conditions stated above.