



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

MCPB
Item # 10
2/19/09



MEMORANDUM

DATE: February 9, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Build Division

FROM: Patrick Butler, Planner (301.495.4561) *P.B.*
Build Division

REVIEW TYPE: Pre-Preliminary Plan of Subdivision for a Minor Subdivision that requires a Planning Board decision regarding creation of a lot in the RDT zone that is greater than 5 acres in size.

APPLYING FOR: 1 lot for 1 one-family detached dwelling unit

PROJECT NAME: Hull Property

CASE #: 720080130

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RDT

LOCATION: On Comus Road, 700 feet east of the intersection with Slidell Road.

MASTER PLAN: Agriculture & Rural Open Space

APPLICANT: Robert Hull

ENGINEER: CAS Engineering

FILING DATE: January 18, 2008

HEARING DATE: February 19, 2009

RECOMMENDATION: Binding Planning Board approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 1 lot for 1 one-family detached residential dwelling unit.
- 2) The applicant must dedicate right-of-way for Comus Road along the property frontage to provide a total of 40 feet from the centerline as shown on the preliminary plan.
- 3) The record plat must reflect a Category I easement over all areas of stream valley buffer and forest conservation.
- 4) The Applicant must submit a final forest conservation plan to M-NCPPC staff for review and approval prior to recordation of the lot.
- 5) The applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS), Well and Septic Section approval dated September 17, 2008. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the preliminary plan approval.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated March 11, 2008. These conditions may be amended by MCDOT, as long as the amendments do not conflict with other conditions of the preliminary plan approval.
- 7) The applicant must satisfy provisions for access and improvements as required by MCDOT prior to issuance of access permits.
- 8) At the time of record plat application, the applicant must provide proof to MNCPPC staff of the availability of a TDR for the proposed lot. A note referencing this fact must be included on the record plat.
- 9) Before any building permit is issued, the applicable school facilities payment must be paid to MCDPS.
- 10) Other necessary easements must be shown on the record plat.

SITE DESCRIPTION (Attachment A – Vicinity Map)

The Hull Property, “Property” or “Subject Property”, consists of approximately 8.27 acres in the RDT zone. The Property is located on Comus Road, approximately 700 feet east of Slidell Road. The current configuration of the Subject Property was created by deed in 1978. The surrounding area can be characterized as rural with a mixture of forest, farms, and small clusters of low density residential development.

The Property is located in the Bennett Creek Watershed (Use I-P). There is an intermittent stream that flows south to north on the eastern edge of the property, which includes a 100-year floodplain and stream valley buffer. There are steep slopes located within the stream valley buffer, that are not likely to be impacted by the proposed development. The site is undeveloped and is almost entirely covered by forest.



PROJECT DESCRIPTION (Attachment B – Proposed Plan)

The applicant proposes to record the parcel as 1 lot, 7.86 acres in size, for future construction of a one-family detached dwelling unit. (A Category I Conservation Easement is proposed on site to protect all retained forest and the stream valley buffer. The dwelling unit will be served by a private well and private septic system. The Well and Septic section of MCDPS approved the well and septic plan on September 17, 2008. Access is proposed via a private driveway from Comus Road.

ANALYSIS AND FINDINGS

Density Permitted in the RDT Zone

In order to approve the proposed lot, the Board must find that it conforms to the requirements of the RDT zone. According to Section 59-C-9.41, the base density of the RDT zone is limited to one one-family dwelling unit per 25 acres, except that certain dwelling units are excluded from this calculation provided they are accessory uses to a farm. The Subject Property does not meet the minimum density for the RDT zone, one dwelling unit per 25 acres, however, it is exempt pursuant to Section 59-C-9.74(b)(2) of the Zoning Ordinance which states:

- (b) The following lots are exempt from the area and dimensional requirements of Section 59-C-9.4 but must meet the requirements of the zone applicable to them prior to their classification in the Rural Density Transfer zone.

- (2) A lot created by deed executed on or before the approval date of the sectional map amendment which initially zoned the property to the Rural Density Transfer Zone.

The Property was created by deed in 1978 and the sectional map amendment took place on January 6, 1981. As a result, the Property must comply with the area and dimensional requirements of the earlier Rural zone. The lot was reviewed for compliance with the Rural zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

Minor Subdivision Requirements

The proposed lot is to be platted pursuant to Section 50-35A(a)(8) of the Subdivision Regulations. This section establishes the ability to plat up to five (5) lots in the RDT zone through the minor subdivision process after Planning Staff *or* Planning Board approval of a pre-preliminary plan. Applications for minor subdivision under Section 50-35A(a)(8) must meet the following criteria:

- a. Written approval for a proposed septic area must be received from the Montgomery County Department of Permitting Services, Well and Septic Section prior to recordation of the plat;
- b. Any required street dedications along the frontage of the proposed lot(s) must be shown on the record plat;
- c. An easement must be recorded for the balance of the property noting that density and TDR's have been utilized for the new lots. Reference to this easement must be reflected in the record plat for the lots;
- d. Lots created in the RDT zone through the minor subdivision procedure must not exceed an average lot size of five (5) acres in size unless approved by the Planning Board in the review of a pre-preliminary plan of subdivision; and
- e. Forest conservation requirements must be satisfied prior to recording of the plat.

Staff has reviewed this Application based on the criteria above and has determined that:

- (a) MCDPS approved the proposed well and septic plan on September 17, 2008.
- (b) Dedication for Comus Road is shown on the preliminary plan in accordance with the Master Plan of Highways and will be reflected on the future record plat.
- (c) The proposed subdivision accounts for the total density currently allowed by the Subdivision Regulations and Montgomery County Zoning Ordinance, and the applicant must provide Staff with information verifying a TDR is available at the time of record plat.
- (d) The proposed lot size exceeds the five (5) acres allowed under Section 50-35A(8)(d), therefore, this Application has been submitted as a pre-preliminary plan for review by Staff, and must be approved by the Planning Board. Staff finds the creation of the proposed lot is reasonable. The onsite stream, floodplain, area of steep slopes, and vast forest cover limit the amount of farming that could otherwise occur on the Subject Property. Given the constraints of the Subject Property, a smaller residential lot with a farm parcel is not feasible for this specific site.

(e) The applicant has an approved preliminary forest conservation plan and is required to have an approved final forest conservation plan prior to recording a plat.

Compliance with the other Requirements of 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. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. Pursuant to Section 59-C-9.74(b)(2), the Subject Property is exempt from the area and dimensional requirements of the RDT zone because it is a lot created by deed executed on or before the approval date of the sectional map amendment which initially zoned the Property to the Rural Density Transfer Zone.

Master Plan Compliance

The Agriculture and Rural Open Space (AROS) Master Plan gives general guidance and recommendations regarding preservation of farmland and rural open space in Montgomery County. The master plan recommends that this area maintain lower densities of residential development for the protection of agriculture, environmental features, and residential use of a rural character. The pre-preliminary plan complies with the master plan goals in that it contributes to the area's low density character, protects environmental features via a Category I Conservation Easement, and does not create further fragmentation within the zone.

Public Facilities

Roads and Transportation Facilities

Comus Road is classified as a country arterial road, and the required right-of-way is 80 feet. The applicant must dedicate approximately 6,830 square feet along the Property frontage to provide a total of 40 feet from the centerline, which is shown on the preliminary plan. Sidewalks are not required along the Property frontage in the RDT zone. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public and private improvements.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling unit. 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. The Application is within a school moratorium area, but new subdivisions creating up to three new homes are permitted within such an area. Since this Application is for only one, one-family detached dwelling unit, it meets this provision. However, a school facilities payment must be made prior to issuance of building permits for the proposed lot. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the Property.

Environment

Environmental Guidelines

Environmental Planning staff approved the Natural Resource Inventory/Forest Stand Delineation for the site on January 22, 2008. The NRI/FSD identifies 7.03 acres of forest, a stream and associated 100-year floodplain, steep slopes, and an environmental buffer. The steep slopes are associated with and located near the stream. The environmentally sensitive areas of this plan will be protected by a Category I Conservation Easement. The existing driveway does encroach into the stream valley buffer. However, staff finds this acceptable, because the amount of forest retention and the amount of land protected by a Category I Conservation Easement compensate for the encroachment. Therefore, staff finds this plan in compliance with the Montgomery County Environmental Guidelines.

Forest Conservation

The applicant submitted a preliminary forest conservation plan as part of the preliminary plan of subdivision. Currently, there are approximately 7.03 acres of forest on the Subject Property. The preliminary forest conservation plan proposes 4.52 acres of forest retention and 2.51 acres of forest clearing. The forest retention area is located on all areas of forest outside of the limit of disturbance, and outside the environmental buffer along the eastern edge of the Subject Property. The forest retention area will be protected through a Category I Forest Conservation Easement, which also protects the environmentally sensitive areas on site. The amount of retained forest slightly exceeds the break-even point of 4.49 acres; therefore, no reforestation planting is required for this plan. The application satisfies the requirements of the forest conservation law.

Citizen Correspondence and Issues

The applicant notified adjacent and confronting property owners as well as community groups and civic associations of the application submission to MNCPPC, as required. As of the date of this report, no concerns from these parties have been brought to Staff's attention.

CONCLUSION

The proposed lot complies with Chapter 50, the Subdivision Regulations, and with the Montgomery County Zoning Ordinance, and is consistent with the recommendations of the Functional Master Plan for Preservation of Agriculture and Rural Open Space. Access and public facilities will be adequate to serve the proposed lot, and the application has been reviewed by the applicable county agencies, all of whom have recommended approval of the plan. Therefore, Staff recommends approval of the application with the conditions listed above.

Attachments

Attachment A – Vicinity Map

Attachment B – Proposed Development Plan

Attachment C – Agency Correspondence

HULL PROPERTY (720080130)



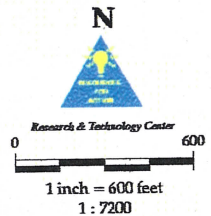
Map compiled on February 04, 2008 at 3:38 PM | Site located on base sheet no - 233NW15

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.

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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue - Silver Spring, Maryland 20910-3700



Attachment C



DEPARTMENT OF PERMITTING SERVICES

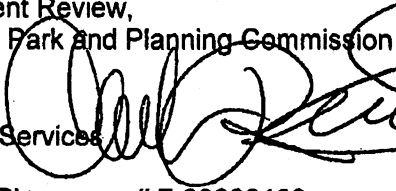
Isiah Leggett
County Executive

Carla Reid Joyner
Director

MEMORANDUM

September 17, 2008

TO: Cathy Conlon, Development Review,
Maryland National Capital Park and Planning Commission

FROM: Carla Reid, Director
Department of Permitting Services 

SUBJECT: Status of Pre-Application Plan: # 7-20080130,
Hull Property, Lot 1

This is to notify you that the Well & Septic Section of MCDPS approved the plan received in this office on September 16, 2008.

Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.

If you have any questions, contact Gene von Gunten at (240) 777-6319.

cc:
Surveyor
File

Ann:
Curt S.

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DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

Isiah Leggett
County Executive

March 11, 2008

Arthur Holmes, Jr.
Director

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

RE: Pre-Preliminary Plan No. 7-20080130
Hull Property

Dear Ms. Conlon:

We have completed our review of the above-referenced pre-preliminary plan. We recommend the followings to be addressed prior to recordation of record plat:

1. Necessary dedication for Comus Road in accordance with the master plan.
2. Storm drainage and/or flood plain studies, with computations. Analyze the capacity of the existing public storm drain system and the impact of the additional runoff. If the proposed subdivision is adjacent to a closed section street, include spread and inlet efficiency computations in the impact analysis.
3. Necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line. Also show revertible and perpetual easements.
4. Wells and septic systems cannot be located within the right of way or easements.
5. Submit a completed, executed MCDPWT Sight Distances Evaluation certification form for our review and approval.
6. Revise the plan as necessary to meet the requirements of the Montgomery County Department of Permitting Services with regard to wells and/or septic systems.
7. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
8. Please coordinate with Department of Fire and Rescue about their requirements for emergency vehicle access.

Division of Operations

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

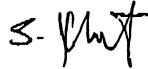


Ms. Catherine Conlon
Pre-Preliminary Plan No. 7-20080130
Date March 11, 2008
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9. Permit and bond will be required as a prerequisite to MCDPS approval of the record plat. The permit will include, but not necessarily be limited to the following improvements:
- A. Enclosed storm drainage and/or engineered channel in all drainage easements.
 - B. Erosion and sediment control measures.
 - C. Street lights.
 - D. Street trees.
 - E. Permanent monuments and property line markers.

Thank you for the opportunity to review this pre-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.
Development Review Group
Traffic Engineering and Operations Section
Division of Operations

m:/subdivision/farhadi01/pre-preliminary plans/ 7-20080130, Hull Property.doc

cc: Robert Hull
Curt Schreffler, CAS Engineering
Joseph Y. Cheung; DPS RWPPR
Sarah Navid; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP
Gregory Leck, DPWT TEOS
Pre-Preliminary Plan Folder
Pre-Preliminary Plans Note Book

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