



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

MCPB
Item #
3/18/10



MEMORANDUM

DATE: March 5, 2010

TO: Montgomery County Planning Board

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

FROM: Richard Weaver, Coordinator (301-495-4544) *RAW*
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision

APPLYING FOR: A subdivision to adjust the shared lot line between two commonly owned lots.

PROJECT NAME: Spring Meadows
CASE #: 120090200
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RC
LOCATION: On the east side of Poplar Hill Road, approximately 2,500 feet south of the intersection with Spring Meadows Drive.
MASTER PLAN: Potomac Subregion (Darnestown)

APPLICANT: Kenneth Steben
ENGINEER: Benning and Associates

FILING DATE: December 23, 2008
HEARING DATE: March 18, 2010

RECOMMENDATION: Approval, subject to the following conditions:

- 1) Approval is limited to two reconfigured one-family detached residential lots.
- 2) The proposed development must comply with the conditions of the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
- 3) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) well and septic approval dated June 8, 2009. These conditions may be amended by MCDPS provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 4) The Applicant must comply with the Montgomery County Department of Permitting Services (MCDPS) stormwater management letter dated October 14, 2008. These conditions may be amended by MCDOT provided the amendments do not conflict with other conditions of the preliminary plan.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated March 24, 2009. These conditions may be amended by MCDOT provided the amendments do not conflict with other conditions of the preliminary plan.
- 6) Existing viewshed easements for adjacent Lots 65 and 66 shall be shown on record plat for proposed Lot 81.
- 7) The certified preliminary plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and driveways will be determined during the building permit process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 8) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 9) Other necessary easements must be shown on the plat.

SITE DESCRIPTION (See figure 1)

The subject property "Property" or "Subject Property" is identified as Lots 52 and 64, Block C in the Spring Meadows Subdivision. The Property, which is zoned Rural Cluster (RC), is located on the east side of Poplar Hill Road, approximately 2,500 feet south of the intersection with Spring Meadows Drive in the Potomac Subregion Master Plan. Lot 52 is 22.8 acres and Lot 64 is 20.0 acres, totaling 42.82 acres and were created by a plat recorded in 1986.

Lot 64 currently has a house on it, Lot 52 is vacant. Lot 64 has frontage on Poplar Hill Road via a pipestem while Lot 52 has considerable frontage on Poplar Hill Road. The eastern

border of the Property is bounded by a Use-I tributary to the Lower Great Seneca creek. The Property has numerous on-site wetland areas and 15.78 acres of stream valley buffer.

A review of the original plats for the Spring Meadows Subdivision reveals that these two lots are part of the open space for the development of Spring Meadows which developed under the optional method of the Rural Cluster zone. Optional cluster development in the RC zone is required to provide 60% of the entire subdivision as open space which can include easements on private lots with houses. The two lots, and nine other large lots all in excess of 20 acres, appear to comprise the open space for the development although they do not have any open space easements associated with them.

SPRING MEADOWS (120090200)

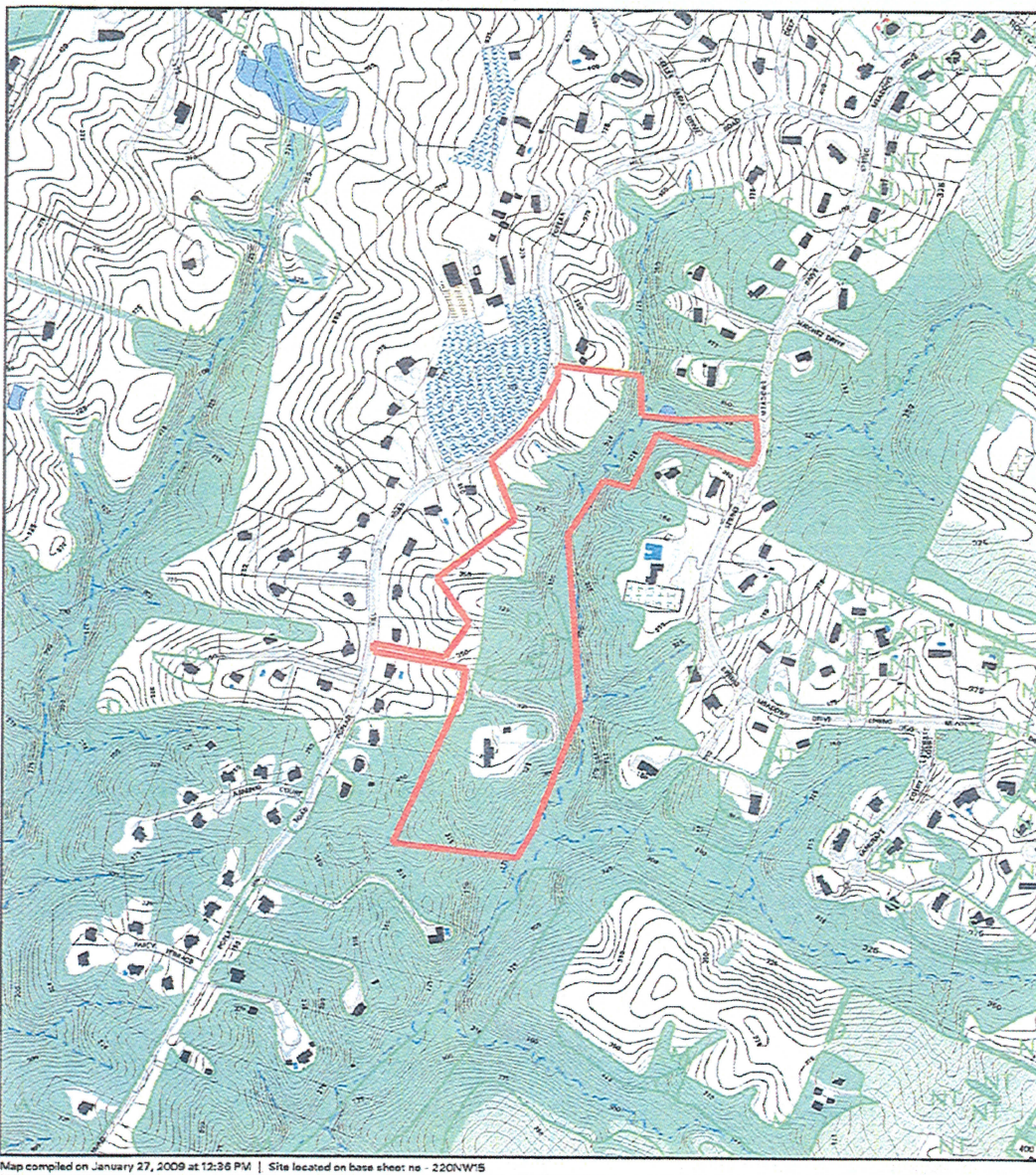


figure 1

PROJECT DESCRIPTION and DISCUSSION (see figure 2)

The application proposes to adjust the lot line between the two lots (52 and 64) that comprise the Subject Property. No new lots are created by this application, however, because the lots will have new configurations, a new record plat will be required and the lots will receive new lot numbers. The Property will also be required to meet the requirements of the Montgomery County Forest Conservation law; therefore, forest conservation easements will be placed on the plat. Based on the Planning Board's recent interpretation that the resubdivision criteria does not apply to the agricultural zones, such as the Rural Cluster zone this application is not subject to a resubdivision analysis.

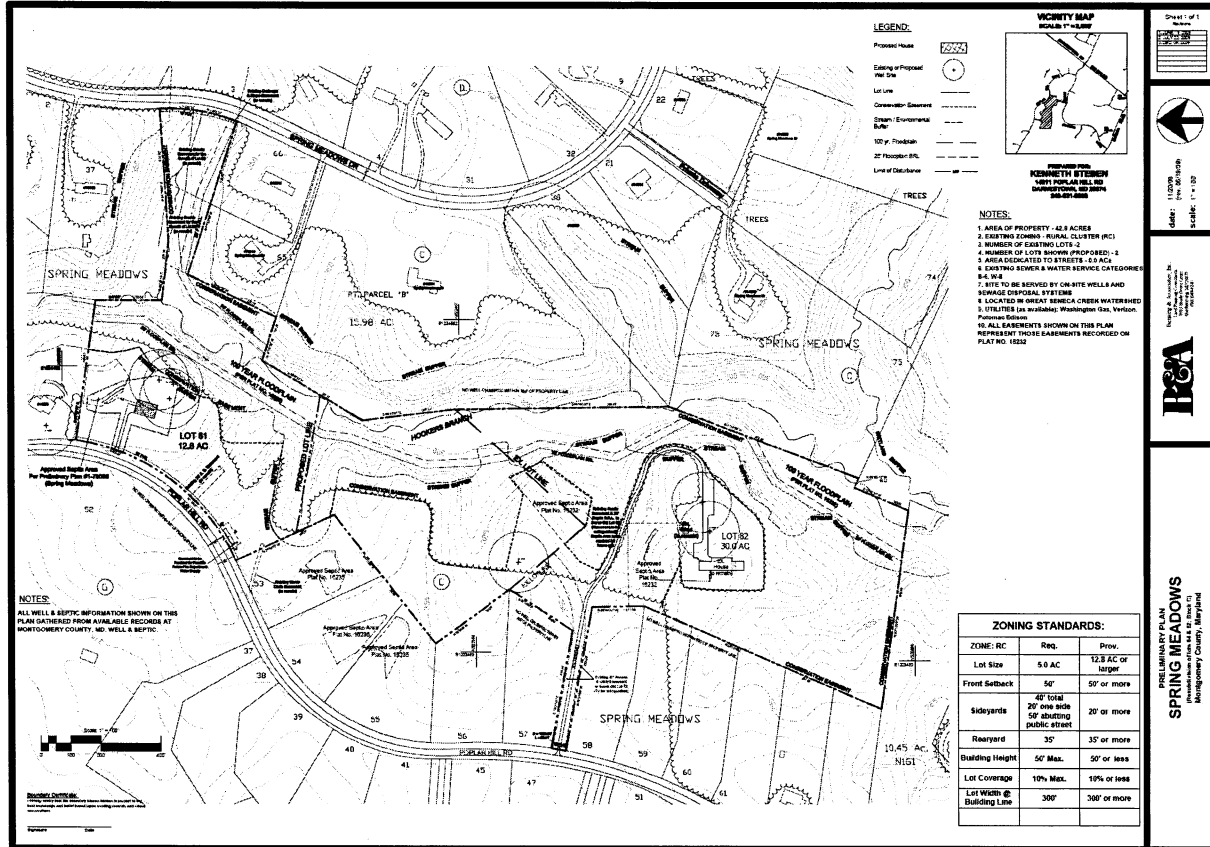
Both lots are currently under common ownership but the Applicant wishes to ensure that any future house location on the vacant lot is farther removed from the existing house than would be possible given the current lot configuration. Under this proposal, the new house location would be located to the far northern reaches of the Subject Property on proposed Lot 81. A new septic reserve area has been approved for this lot and located to accommodate the new house location. The existing septic reserve area that was approved for this house will be retained on the occupied lot and could be used for a future guest house as an accessory structure to the existing home; both to be located on proposed Lot 82. Attachments 1 and 2 best illustrate the existing and proposed lot patterns.

As mentioned above, it is evident that the two lots are part of the open space requirements for the original Spring Meadows subdivision, a cluster subdivision approved in 1982 and platted in 1985. A review of the 1982 preliminary plan shows a note on the plan acknowledging that the RC zone required 60% open space; however, it is not precisely clear which areas of the subdivision were required to be open space. The entire Spring Meadows subdivision is comprised of 68 lots and totals 340 acres, 60% of which is 204 acres. Of the 68 lots, 11 are 20 acres or greater in size, 2 lots are between 4 and 6 acres and the remaining 55 lots are less than 3 acres. Staff calculated the total area of the 11 largest lots, those of 20 acres or more, and found that they total 205 acres, just in excess of 60% of the entire 340 acre subdivision. Yet there are other areas located on the smaller lots that also qualify for open space. Suffice to say the Spring Meadows subdivision has ample open space areas that exceed the 60% minimum requirement. There are no open space easements on any of the 68 lots. Under today's procedures, and in accordance with the RC zone standards in the current version of Chapter 59, open space can be accommodated on a private lot but must be protected within an easement, if located on private property.

For this application, staff finds that the requirement to place 27.33 acres of the 42.81 acre site in a Category I forest conservation easement meets the 60% open space requirement in the RC zone. Staff has further considered that, of the 42.81 acre tract, 15.48 acres (41.88ac - 27.33ac) will no longer be considered open space under current standards which might affect the open space that was envisioned in the original approval. Staff's review of the existing subdivision reveals that ample open space opportunities exist beyond the 11 lots that originally comprised the open space. There are streams and stream buffers located on the smaller lots that would offset the loss of 15.48 acres had the entire subdivision been before the Planning Board for consideration. Staff concludes there to be no net loss of open space, and that

the new preliminary forest conservation plan for these two lots will protect forest and open space in perpetuity, unlike the original proposal that had no long term protection measures.

Figure 2



ANALYSIS AND FINDINGS FOR THE REVISED APPLICATION

Master Plan Compliance

The Potomac Subregion Master Plan (2004) recommended the continuation of the RC zone for the Property and nearby properties in recognition of, and to accommodate, the existing development patterns that have been established in the area. This area was envisioned to be a transition area between the higher densities in and around Darnestown proper, and the Rural Density Transfer Zone densities to the north. Because this subdivision proposes two large lots, much in keeping with what is already established on the Property and supports the rural character, this application is in conformance with the Master Plan recommendations.

Public Facilities

Roads and Transportation Facilities

The application will not generate any additional trips and was not subject to Local Area Transportation Review or Policy Area Mobility Review. Sidewalks were not required when the subdivision developed initially, and they are not required today because of the low density RC zoning. Pedestrians can continue to safely use the streets for mobility. Staff finds that vehicle and pedestrian access for the subdivision to be safe and adequate.

Other Public Facilities and Services

All existing utilities currently exist and are available. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. The Property is not subject to payment of a School Facilities Payment because the school cluster is operating with adequate standards.

Environment

The approved Natural Resource Inventory/Forest Stand Delineation (#420081600) identifies nine specimen trees on the property. The site has 30.80 acres of forest, 15.78 acres of environmental buffer, 9.53-acres of floodplain, and 2.30-acres of wetlands. The majority of environmentally sensitive areas on-site are currently forested. There are some steep slopes on the subject property which are generally located adjacent to the streams and wetlands.

There is one stream system running along the eastern edge of the property. The property is within the Lower Great Seneca Creek watershed; a Use I-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as good.

Environmental Guidelines

Staff finds that the Category I easements shown on the preliminary forest conservation plan address all requirements for compliance with the Montgomery County Environmental Guidelines. There is one area of stream valley buffer (SVB) which contains the existing driveway and is not proposed to be placed into conservation easement. Staff supports this proposal because the relocation/removal of the existing driveway would be more detrimental to its surroundings than letting it remain where it is.

Forest Conservation

Staff finds that the plan meets all applicable requirements of the county Forest Conservation Law, Chapter 22A. The plan saves high priority forest and exceeds the amount of forest that needs to be retained to avoid reforestation. The forest conservation plan shows 3.47 acre of forest clearing and 27.33 acres of forest retention: all retention areas are to be protected in a Category I easement. Additionally, all areas of unforested environmental buffer, except in the location of the existing driveway, will be placed into a Category I easement.

Forest Conservation Variance

Maryland State Senate Bill 666 mandates new criteria to be incorporated into all local forest conservation laws and identifies certain individual trees as high priority for protection. If a forest conservation plan cannot be altered to protect these individual trees, an applicant is required to submit a variance to remove such trees. The applicant has requested a variance to remove one tree: a 46.5" White Oak. The applicant's arborist has determined this tree to be a hazard tree in poor condition. The tree is located approximately 40' from an existing shed and 85' from the nearest point on the driveway. It is also located within an approved septic area for the existing house.

Montgomery County Code 22A (Forest Conservation Law (FCL)) Section 22A-21(c) requires that the Planning Board refer a copy of each variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a written recommendation prior to acting on the request. The variance request was referred to the Montgomery County Arborist on January 25, 2010. The County Arborist has elected not to review the variance request.

Section 22A-21(e) of the County code states that the Planning Board must make findings that the applicant has met all requirements of this section before granting a variance. FCL Sect. 22A-21(d) states that a variance must *not* be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Staff recommends approval of the variance based on the following findings:

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

The White Oak tree that is the subject of the variance is/was located within the septic field drainage area for the existing house when it was approved in 1985, prior to the Montgomery County Forest Conservation Law. Because it is within the septic reserve easement it cannot be shown as a tree to be saved on the preliminary forest conservation plan and must be shown as to be removed. Therefore, the need for the variance results from a change in regulations since the original lots were approved and does not confer any special privilege upon this Applicant.

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

The need for the variance is based upon a change in regulations and not as a result of actions by the Applicant.

3. *The need for the variance does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

The request for a variance is not a result from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.

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

The granting of a variance to remove this one tree will not result in a violation of State water quality standards or in any measurable degradation in water quality in general.

Staff finds the Preliminary Plan to be in compliance with the Environmental Guidelines and the Montgomery County Forest Conservation law.

Stormwater Management

By letter dated October 14, 2008 the Montgomery County Department of Permitting Services advises that stormwater management will be addressed on-site but because no structures are currently anticipated on the new lot, a stormwater management concept will be reviewed and approved if or when a building permit is submitted to the County.

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. Staff has reviewed the proposed lot size, width, shape and orientation and finds it to be appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements of the RC 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. 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.

Citizen Correspondence and Issues

This plan was properly processed in accordance with the current submittal procedures. A pre-submission meeting was held with interested neighbors on August 5, 2008 at the Quince Orchard Library. Ten individuals, other than the applicant's team, attended the meeting. According to the meeting minutes, no objections to the plan were raised and no changes were requested. No comments were submitted to the file during the review of this 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 use, 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.

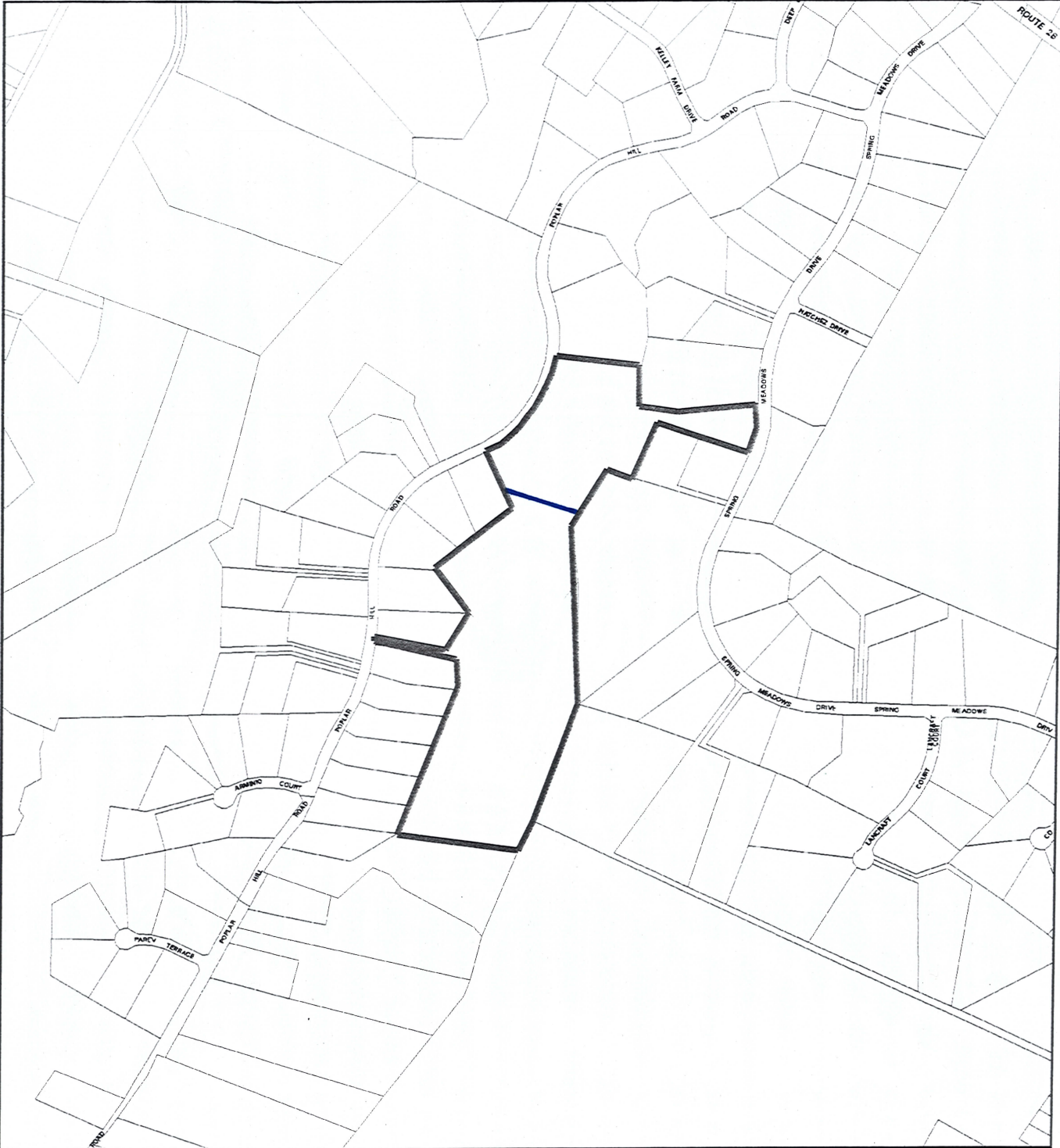
Attachments

- 1) Existing lot pattern
- 2) Proposed lot pattern

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Spring Meadows				
Plan Number: 120090200				
Zoning: RC				
# of Lots: 2				
# of Outlots:				
Dev. Type: Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Lot Area	40,000 sq. ft.	12.8 acres	RW	
Lot Width	150 ft.	812 ft.	RW	
Lot Frontage	25 ft.	125 ft.	RW	
Setbacks				
Front	50 ft. Min.	Must meet minimum ¹	RW	
Side	17 ft. Min./ 35 ft. total	Must meet minimum ¹	RW	
Rear	35 ft. Min.	Must meet minimum ¹	RW	
Height	50 ft. Max.	May not exceed maximum ¹	RW	
Max Resid'l d.u. per Zoning	2	² no additional density available	RW	
MPDUs	N/A		RW	
TDRs	N/A		RW	
Site Plan Req'd?	No		RW	
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	RW	
Road dedication and frontage improvements		Yes		
Environmental Guidelines		N/A	Staff memo	
Forest Conservation		Yes	Staff memo	
Master Plan Compliance		Yes	RW	
Other (i.e., parks, historic preservation)		N/A	RW	
Stormwater Management		Yes	Agency letter	
Water and Sewer (WSSC)		Yes	Agency comments	
10-yr Water and Sewer Plan Compliance		Yes		
Well and Septic		Yes		
Local Area Traffic Review		N/A	RW	
Policy Area Mobility Review		N/A	RW	
Transportation Management Agreement		N/A	RW	
School Cluster in Moratorium?		No	RW	
School Facilities Payment?		Yes	RW	
Fire and Rescue		Yes	Agency letter	
Other (i.e., schools)		No		

¹ As determined by MCDPS at the time of building permit.



Map compiled on January 27, 2009 at 12:31 PM | Site located on base sheet no - 220NW15

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

