



**MONTGOMERY COUNTY PLANNING BOARD**

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

APR 22 2009

**MCPB No. 08-122**  
**Pre-Preliminary Plan No. 720070300**  
**Phyllis Jones Property**  
**Date of Hearing: July 24, 2008**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION<sup>1</sup>**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review pre-preliminary plan applications; and

WHEREAS, on February 1, 2007, Phyllis Jones ("Applicant"), filed an application for approval of a pre-preliminary plan of subdivision of property that would create one 4-acre lot for the child of the property owner and a 21.24-acre farm remainder on 25.24 acres of land zoned RDT and located on the south side of Whites Ferry Road, 500 feet west of Morrow Road ("Property" or "Subject Property"), in the Agriculture and Rural Open Space Master Plan ("Master Plan") area; and

WHEREAS, Applicant's pre-preliminary plan application was designated Pre-Preliminary Plan No. 720070300, Phyllis Jones Property ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated June 18, 2008, setting forth its analysis, and recommendation for denial, of the Application ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on July 24, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

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

Approved as to  
Legal Sufficiency:

*Christina Sorrento* 4/7/09

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WHEREAS, on July 24, 2008, the Planning Board voted to deny the Application, on motion of Commissioner Robinson; seconded by Commissioner Alfandre; with a vote of 5-0, Commissioners Alfandre, Cryor, Hanson, Presley, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board denied Pre-Preliminary Plan No. 720070300 to create one 4-acre lot for the child of the property owner and a 21.24-acre farm remainder on 25.24 acres of land zoned Rural Density Transfer (RDT) and located on the south side of Whites Ferry Road, 500 feet west of Morrow Road ("Property" or "Subject Property"), in the Master Plan area.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS that:

1. *The Pre-Preliminary Plan fails to conform to the Functional Master Plan for the Preservation of Agriculture and Rural Open Space.*

The Property falls within the Agricultural Reserve area described in the Master Plan as an area that "includes the majority of the remaining working farms, as well as other land uses that will serve to define and support those working farms" (p. 38), and "contain[s] a critical mass of productive farmland worthy of protection, as well as other non-farmland uses which serve to support and define the critical mass" (p. 41). The Master Plan recommends RDT zoning and transfer of development density to help preserve farmland and agricultural uses in these areas. Furthermore, the Master Plan supports a sanitation policy that does not encourage development within viable farmland.

The Planning Board finds that the Preliminary Plan does not substantially conform to the Master Plan because it does not meet the primary objective of preserving agricultural land. The proposed lot will significantly reduce the amount of the Subject Property available for farming. The proposed lot would occupy 16% of the Subject Property and would eliminate 3.7 acres of the best available farmland on the Property. The size and location of the proposed house and associated sites for wells and sand mounds make it unlikely that the child lot itself would be used for a productive farm or contribute to preserving this critical mass of farmland.

Further, the Planning Board finds that the child lot is not the minimum size necessary, and therefore that the subdivision, as proposed, would fail to preserve the maximum amount of viable farmland. The proposed lot is four acres and is located on the portion of the lot with the greatest agricultural potential (i.e. the

area consisting of prime agricultural soils). The Board was not presented with evidence demonstrating that the lot could not be made smaller and still meet well and septic requirements. The Planning Board therefore finds that the Preliminary Plan does not support the primary goal of the Master Plan, which is to preserve the critical mass of farmland in the Agricultural Reserve.

The preservation of prime agricultural soils, where possible, is of great importance for preserving the most suitable land for agricultural use. While prime agricultural soils are not necessary for all possible agricultural uses, prime soils can support the widest array of agricultural activity. The unnecessary elimination or fragmentation of such soils due to the location of the proposed house and septic fields fails to implement the Master Plan's stated goals to preserve agriculture and maintain a critical mass of contiguous land in agricultural use.

2. *The Preliminary Plan does not comply with the intent of the RDT zone to promote agriculture as the primary land use.*

For the foregoing reasons, the Planning Board also finds that the proposed development is inconsistent with the RDT-zone objective of promoting agriculture as the primary land use. The size of the proposed lot is four acres, significantly larger than the minimum permitted size of 40,000 square feet. And as explained in the Staff Report, "[t]he size and location of the proposed house, well and sand mounds make it unlikely that the child lot itself would be used for a farm." Therefore, the Preliminary Plan does not minimize the amount of land taken out of potential agricultural use.

3. *The size, width, shape, and orientation of the proposed lot is not appropriate for the location of the subdivision.*

Because the proposed lot is larger than necessary and located on the land with the greatest agricultural potential, in a manner which, as discussed above, conforms neither with the intent of the RDT zone or the Master Plan, the Planning Board finds that the size and orientation of the proposed lot is not appropriate for the location of the subdivision. The lot would occupy 16% of the Property and include 3.7 acres of prime agricultural soils. Thus, the proposed lot size significantly reduces the area available for farming on the Subject Property. In this regard, the Planning Board notes that it was not presented with any convincing evidence that the lot size could not be reduced or that the lot could not be relocated so as to reduce the impact of the proposed subdivision on agriculture.

BE IT FURTHER RESOLVED, that the date of this Resolution is APR 22 2009 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Commissioner Hanson, with Commissioners Hanson, Robinson, Alfandre, Cryor, and Presley voting in favor of the motion, at its regular meeting held on Thursday, April 16, 2009, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board