



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

JUL 23 2012

MCPB No. 12-28
Pre-Preliminary Plan No. 720110010
Phyllis Jones Property
Date of Hearing: March 1, 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 40, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review preliminary plan applications; and

WHEREAS, on August 3, 2011, Phyllis Jones ("Applicant"), filed an application for approval of a pre-preliminary plan of subdivision of property that would create one child lot of 2.0 acres via the minor subdivision process outlined in Section 50-35A(a)(8) of the Subdivision Regulations on 25.24 acres of land in the RDT zone, located at 17800 Whites Ferry Road, Poolesville, 500 feet west of Morrow Road, ("Subject Property"), in the Preservation of Agriculture and Rural Open Space Master Plan area ("Master Plan"); and

WHEREAS, Applicant's pre-preliminary plan application was designated Pre-Preliminary Plan No. 720110010 Phyllis Jones Property ("Pre-Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated February 16, 2012, (revised February 23, 2012), setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on March 1, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 1, 2012, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Wells-Harley, and Presley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves

Approved as to
Legal Sufficiency:

Christina Sorrento 6/28/12

8787 Georgia Avenue, Suite 200, Maryland 20814 Chairman's Office: 301.495.4606 Fax: 301.495.1320

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Pre-Preliminary Plan No. 720110010 to create one child lot on the Subject Property subject to the following conditions:¹

- 1) Approval under this Pre-Preliminary Plan is limited to one lot for one detached dwelling unit.
- 2) The Applicant must comply with the conditions of approval for the final forest conservation plan prior to recording of plats or issuance of sediment erosion control permits. Any easements must be shown on the record plat.
- 3) The Applicant must comply with the Montgomery County Department of Permitting Services ("MCDPS") conditions of approval for well and septic, as stated in the MCDPS staff memo of January 20, 2012. These conditions may later be amended by MCDPS, as long as they do not conflict with the Pre-Preliminary Plan.
- 4) The record plat must reflect common ingress and utility easements over the shared driveway.
- 5) The Applicant must address stormwater management at the sediment control stage, as per the MCDPS approval of August 31, 2011.
- 6) An easement must be recorded for the balance of the property noting that a TDR has been utilized for the child lot. Reference to this easement must be reflected on the record plat.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Pre-Preliminary Plan substantially conforms to the Master Plan.*

The Pre-Preliminary Plan is designed to minimize lot size, minimize fragmentation of the property, and maximize the viable farmland. Since the Pre-Preliminary Plan preserves and promotes agriculture, it substantially conforms to the Master Plan.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

2. Public facilities will be adequate to support and service the area of the approved subdivision.

The approved lot and farm remainder do not generate 30 or more vehicle trips during the morning or evening peak-hours. The Application is not subject to Local Area Transportation Review. Additional right-of-way dedication is not required for Whites Ferry Road and a sidewalk is not required along the property frontage. Access to the new dwelling is approved as an extension of the existing driveway and additional access points from Whites Ferry Road are not required. Vehicle and pedestrian access for the subdivision will be safe and adequate.

Other public facilities and services are available and will be adequate to serve the approved lot. A well and sand mound septic system is approved by the Department of Permitting Services to serve the new dwelling unit on the child lot and to serve as a back-up field for the existing house on the approved farm remainder. Gas, electrical and telecommunications services are available to serve the Property. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, fire houses, and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. The Application is not within a school moratorium area and is not subject to a School Facilities Payment.

3. The size, width, shape, and orientation of the approved lot is appropriate for the location of the subdivision.

The approved lot is 2.0 acres and is no larger than the minimum area necessary for approval of well and septic, as per Section 59-C-9.41.1 of the Zoning Ordinance. The width, shape and orientation of the lot are all appropriate for its location.

4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.

A. Forest Conservation

A Preliminary Forest Conservation Plan was deemed acceptable by Staff and a Final Forest Conservation Plan will be approved prior to record plat.

5. All stormwater management requirements shall be met as provided in Chapter 19, article II, title "storm water management," Section 19-20 through 19-35.

When the Application proceeds to building permit, the Applicant will be required to address stormwater management at the sediment and erosion control permit stage.

6. *The Application complies with Montgomery County Code applicable subdivision requirements under Section 50-35A(a)(8) and density requirements under Section 59-C-9.41.1.*

The Subject Property meets all the subdivision requirements applicable in RDT zones under Section 50-35A(a)(8) because:

- A. The MCDPS, Well and Septic Section approved the septic area on January 12, 2012;
- B. No additional right-of-way dedication is required for Whites Ferry Road along the property frontage road because existing right-of-way for the road is adequate;
- C. Recording an easement noting the density and utilization of TDR's on the Subject Property's plat is a condition of its approval;
- D. The approved Subject Property meets the size requirements for subdivision in an RDT zone because it is only 2.0 acres; and
- E. The Final Forest Conservation Plan will be approved by Staff prior to record plat.

The Subject Property also meets the density requirements applicable in RDT zones under Section 59-C-9.41.1., for having a child lot above the density of one one-family dwelling unit per 25 acres because the Applicant:

- A. Recorded title to the Property before January 7, 1981;
- B. Personally applied for approval to create the Subject Property; and
- C. Retains a development right for each lot.

BE IT FURTHER RESOLVED, that this Pre-Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Pre-Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 23 2012 (which is the date that this Resolution is mailed to all parties of record); and

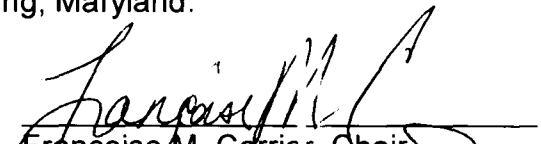
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this

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 Dreyfuss, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 12, 2012, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board