



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

MAR 25 2014

MCPB No. 14-15
Preliminary Plan No. 12006118A
Seneca Springs
Date of Hearing: March 13, 2014

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on January 22, 2009, the Planning Board, by Resolution MCPB No. 08-115, approved Preliminary Plan No. 120061180, creating 7 lots, an outlot, and an open space parcel on 29.26 acres of land in the RE-2C zone, located approximately 1,600 feet southwest of the intersection of Stanley Hills Way and Damascus Road (MD108) ("Subject Property"), in the Damascus Policy Area, Damascus Master Plan (2006) ("Master Plan") area; and

WHEREAS, on February 21, 2013, Seneca Ridge Development, LLC ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan(s) to subdivide an unplatted remainder of a previously approved subdivision into four lots on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12006118A, Seneca Springs ("Preliminary Plan", "Amendment" 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 28, 2014, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 13, 2014, 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, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

Approved as to  /CS 3/2/14
Legal Sufficiency, Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320
M-NCPPC Legal Department
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NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12006118A to subdivide an unplatted remainder of a previously approved subdivision into four lots with the following conditions:¹

1. Approval under this Preliminary Plan is limited to four residential lots.
2. The Applicant must comply with the following conditions of approval for Forest Conservation Plan No. 12006118A :
 - a. A Final Forest Conservation Plan must be approved prior to the issuance of any sediment and erosion control permit that addresses the following conditions:
 - i. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
 - ii. Permanent Category I conservation easement signs must be placed along the perimeter of the conservation easement area at the time of forest planting.
 - b. Record plat(s) must delineate a Category I conservation easement over all areas of forest retention and environmental buffers as shown on the Forest Conservation Plan.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated July 19, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
5. The record plat must contain the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the property is developed."
6. The Planning Board has accepted the recommendations of the Montgomery County Department of Fire and Rescue Services ("MCFRS") in its letter dated October 11, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCFRS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

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.

7. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section letter dated April 30, 2013, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
8. The Planning Board has accepted the recommendations of the MCDPS – Well & Septic Section in its letter dated March 25, 2008, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well & Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
9. 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 hardscape will be determined at the time of issuance of building permit(s). 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."
10. The private street shown on the Preliminary Plan must be constructed to the structural standards of a public tertiary street.
11. The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant shall provide verification to M-NCPPC Staff prior to release of the final building permit that the Applicant's recorded Homeowners Association documents incorporate the Covenant by reference.
12. The record plat(s) must show all necessary easements.
13. 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.

BE IT FURTHER RESOLVED, that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.

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

The Master Plan recommends retaining the existing zones for properties, including the Subject Property, located in the Neighborhood Transition Area. This Application retains the existing zoning. While the Master Plan recommends a cluster option for the Subject Property, it specifically does not place the Subject Property in the sewer envelope. As a result, cluster development absent of community sewer service is acceptable in this area. Therefore, this Application conforms to the Master Plan.

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

Roads and Transportation Facilities

The Planning Board finds the vehicle and pedestrian access for the subdivision will be safe and adequate with the public improvements. The lots will 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.

According to the 2012-2016 Subdivision Staging Policy, the Damascus Policy Area is adequate under the roadway and the transit test under the transportation policy area review (TPAR) guidelines. Therefore, no TPAR payment is required.

Other Public Facilities and Services

The Planning Board finds that other public facilities and services are available and will be adequate to serve the dwelling units. The Subject Property will be served by public water and private standard septic systems. Gas, electric and telecommunications services are also available to serve the Subject Property. Police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. This Application is not subject to a School Facilities Payment. The Application has been reviewed by MCFRS, which determined that the Subject Property has appropriate access for fire and rescue vehicles.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. Access and public facilities will be adequate to support the proposed lots and uses. The lots were reviewed for compliance with the dimensional requirements for the RE-2C zone as specified in the Zoning Ordinance. The Planning Board finds the lots will meet all the requirements for area, frontage, width, and setbacks in that zone and meet all requirements for cluster development as discussed below. The Application has been reviewed by other applicable county agencies, all of which have recommended approval of the Preliminary Plan.

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

There are 13.36 acres of existing forest in four distinct forest stands on the Subject Property. Black cherry, red maple, and tulip popular trees dominate all stands. The primary distinction between the stands is the age and size of the trees in each stand and the stand location relative to environmental buffers and contiguous forests on adjacent properties.

The development utilizes an optional method of development and therefore must comply with Section 22A-12(f) of the Montgomery County code. This section of the code requires minimum on-site retention, or retention and planting of forest. For this Application, 25 percent of the net tract, or 7.32 acres, must be in retained and/or planted forest. The preliminary forest conservation plan indicates the removal of 5.91 acres of forest and the preservation of 7.45 acres of forest, which satisfies the Section 22A-12(f) requirements. The Application is above the break-even point for forest clearing and, therefore, has a 1.38 acres planting requirement, which will be met offsite. All retained forest and unforested environmental buffers will be protected in a Category I forest conservation easement. Developing the Subject Property with a cluster development allows for the Open Space Parcel A, which is entirely forested and includes environmental buffers and steep slopes to be permanently protected in a conservation easement. The Planning Board finds the Application satisfies the requirements of 22A-12(f) of the Montgomery County Code through protection of retained forest, and meets all applicable requirements of the Forest Conservation Law.

- 5. The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is*

based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.

The MCDPS Stormwater Management Section approved the stormwater management concept for the Application on April 30, 2013. The concept consists of on-site water quality control and recharge through a combination of dry wells, porous pavement and a surface sand filter.

6. *The Application satisfies requirements for cluster development as specified in the Zoning Ordinance; including the provisions for a waiver of the minimum area for cluster development in the RE-2C zone.*

Sec. 59-C-1.522 of the Zoning Ordinance states that "No land shall be subdivided under this method and no building permit shall be issued unless the resulting development will be connected to community water supply and sewerage systems. The only exception to this requirement is the RE-2C zone where land that is not served by community sewer may be subdivided under this method if it meets all of the following conditions:

- (a) An approved and adopted master plan or sector plan specifically recommends cluster development with community water but not community sewer.
- (b) The resulting development will be connected to community water.
- (c) The resulting development meets all of the requirements for individual sewerage systems outlined in the most recent county comprehensive water supply and sewerage systems plan and Executive Regulation No. 5-79 on individual water supply and sewage disposal systems."

As stated above, the Preliminary Plan complies with the Master Plan. Community water service has been conditionally approved upon Planning Board approval of the Preliminary Plan and the Montgomery County Department of Permitting Services Well and Septic Division approved the septic field locations for the lots on March 25, 2008.

Sec. 59-C-1.524 of the Zoning Ordinance states "the preliminary or site plan must include a description of the procedures and methods to be followed for assuring the common use and adequate maintenance of common open space included in the plan."

The Applicant allocated 5.66 acres for open space, shown as Open Space Parcel "A" on the Preliminary Plan. Access for any future lots created from the approved outlot to Open Space Parcel A is provided via a 15 foot-wide public use trail

easement along the western boundary of the Subject Property. Access for all other lots is provided via a 15 foot-wide public use trail easement at the southern boundary of the historic lot in the Upper Great Seneca Stream Valley Park. The open space satisfies the purpose of the cluster zone in that it provides a community space for passive recreation and preserves existing forest and trees and will be maintained by the homeowners association.

Section 59-C-1.532 of the Zoning Ordinance stipulates that for cluster development in the RE-2C zone the minimum area of development is 50 acres. The Subject Property contains 29.26 acres. Section 59-C-1.526(a), however, states that for the combining of 2 or more cluster developments in the same zone, "The planning board may waive the minimum areas specified in subsection 59-C-1.532 if the tract abuts an existing cluster development in the same zone and approval of the proposed subdivision will make possible a compatible extension thereof." The Planning Board finds that because the Subject Property abuts two other cluster developments in the same zone, Section 59-C-1.526(a) applies and a waiver of the minimum area of development is granted by the Planning Board. The Application will provide a compatible extension of the Damascus Hills and the Seneca Springs subdivisions.

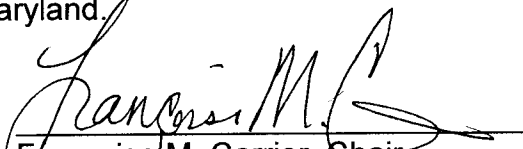
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 25 2014 (which is the date that this Resolution is mailed to all parties of record); and

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 Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, March 13, 2014, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board