



MCPB No. 17-024
Pre-Preliminary Plan No. 720150110
Resurvey on Kilmain
Date of Hearing: April 20, 2017

JUN 05 2017

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review a Pre-Preliminary plan application for a Minor Subdivision under Section 50-35A; and

WHEREAS, on March 30, 2015, Leo Bassett, Jr. (“Applicant”) filed an application for approval of a pre-preliminary plan of subdivision of property that would create one lot on 14.66 acres of land in the AR zone, located at 21707 Club Hollow Road, located on the north side of Club Hollow Road, approximately 1,500 feet west of the intersection with Edwards Ferry Road (“Subject Property”), in the Rural West Policy Area and the Preservation Of Agricultural and Rural Open Space Functional Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Pre-Preliminary Plan No. 720150110, Resurvey on Kilmain (“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 April 7, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on April 20, 2017, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing on motion of Commissioner Dreyfuss, seconded by Commissioner Fani-Gonzalez by a vote of 5-0, the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below;

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES

Approved as to
Legal Sufficiency:

Pre-Preliminary Plan No. 720150110 to create one lot on the Subject Property, subject to the following conditions:¹

1. This Pre-Preliminary Plan is limited to one (1) lot.
2. The Applicant must dedicate and show on the record plat thirty-five (35) feet of dedication from the centerline of Club Hollow Road along the Subject property's entire frontage.
3. Prior to recordation of plat, the Applicant must provide an affidavit for Staff approval of the availability of one TDR for the lot shown on the plat.
4. The record plat(s) must contain the following note:

“Agriculture is the preferred use in the Agricultural Reserve Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone.”

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 Preliminary Plan substantially conforms to the Master Plan.*

The Application is located within the boundary of the *Functional Master Plan for the Preservation of Agriculture and Rural Open Space* of 1980 (“Master Plan”). The Master Plan contains goals and objectives for the preservation of critical masses of farmland and rural open space in the county. The Master Plan encourages the preservation of farmland and establishes policy that will contribute to the continuation of farming. The property falls within the Western Sector of the Master Plan which was recognized in 1980 as having very little non-farm development with large undeveloped and agriculturally workable areas that lend opportunity for continuing agricultural practices. The Master Plan recommends the entire Western Sector, including the subject property, be zoned

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.

RDT and established it as a possible Transfer of Development Rights (TDR) sending area.

The majority of the subject property is used for agriculture or is environmentally sensitive. The proposed lot will be created in the same size, shape and configuration (minus dedication) as it existed prior to 1981. Approval of this lot does not measurably change the amount of land area that is used for agricultural resources nor does it further fragment agricultural land; therefore, Staff finds the Application is in substantial conformance to the Master Plan.

In addition to the Master Plan finding, the approval of the proposed lot will result in a new building and changes to frontage on Club Hollow Road which is identified as a rustic road in the Rustic Roads Functional Master Plan. The Rustic Roads Advisory Committee has reviewed the proposed lot and frontage improvements and has recommended the plan be approved with comments as detailed in the February 14, 2017 letter

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

Roads and Transportation Facilities

The proposed lot does 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. Right-of-way dedication is required for Club Hollow Road in front of the portions of the Property that will be platted. A sidewalk is not required along the Property frontage because it is in the rural policy area. Access to the proposed dwelling unit will be from the existing driveway onto Club Hollow Road. Vehicular and pedestrian access for the subdivision will be adequate.

Transportation Policy Area Review

The Subject Property is located within the Rural West Policy Area for the Transportation Policy Area Review ("TPAR") test and is subject to the 2012-2016 Subdivision Staging Policy, and is exempt for both roadway and transit tests. In any case, TPAR payment would not apply because the Applicant will not receive a building permit before March 1st, 2017. As such, the Applicant will pay the impact fees based on the Subdivision Staging Policy currently in effect.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed lot. The well and septic systems were approved by The Montgomery County Department of Permitting Services, Well and Septic Division on February 1, 2016.

The plan was reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Division who determined that an easement for a future water tank and access easement is required for the application. The proposed fire access plan including the location of the required easements was found acceptable in a letter dated December 20, 2016.

Electrical and telecommunications services are available to serve the Property. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. The Application is in the Poolesville High School cluster, which is not identified as a school moratorium area; and is not subject to a School Facilities Payment under the 2012-2016 Subdivision Staging Policy. However, because the Applicant will not receive a building permit before March 1st, 2017, the Applicant will pay the impact fees based on the Subdivision Staging Policy currently in effect at time of permit.

3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50 "Subdivision Regulations" and Chapter 59 "Zoning Ordinance". The lot meets the dimensional requirements for area, frontage, width and setbacks in the AR zone. The Planning Board has historically sought to reduce the size of new residentially-used lots in the AR zone to be the minimum necessary to accommodate the house and an on-site well and septic to maximize agricultural opportunities elsewhere on farmed properties. Generally, that has resulted in lots that are under 3 acres in size. As part of the minor subdivision requirements detailed below, the Planning Board must review any minor subdivision that creates an average lot size of five acres or larger. In this instance, the proposed 14.51-acre lot envelops the entire parcel as it existed prior to 1981, and will not change the farmable area available.

Section 50-35A(a)(8) (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 (now AR) 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;*

The Montgomery County Department of Permitting Services, Well and Septic Division issued an approval of the existing well and septic system on February 1, 2016.

- b. *Any required street dedications along the frontage of the proposed lot(s) must be shown on the record plat;*

The proposed lot fronts on a public street, Club Hollow Road. The Master Plan recommends 70 feet of right-of-way for Club Hollow Road. The Applicant will be dedicating 35 feet from centerline as part of this Application.

- 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;*

The Applicant is proposing to record the entire 14.66-acre parcel; no remaining balance will be created.

- 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*

The proposed 14.51-acre lot envelops the entire parcel as it existed prior to 1981, and will not change the farmable area available.

- e. *Forest conservation requirements must be satisfied prior to recording of the plat.*

The submitted forest conservation plan, SC2017012, is currently under review by Staff and will be approved if the Planning Board approves the minor subdivision.

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

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420151320 (Attachment 5) for the Property was approved on December 1, 2015. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. There are 5.82 acres of forest, 1.71 acres of wetlands, 3.02 acres of 100-year floodplain, 3.94 acres of stream buffer, and multiple streams. There is no environmental impact associated with this application.

Forest Conservation

The Forest Conservation Plan covers 1.76 acres of the net tract area; 0.15 acres is being deducted as Right-of-way not being developed as part of this project, and 12.81 acres as agriculturally exempt. The Forest Conservation Plan will retain no existing forest, clear 0.37 acre of forest, and generate a 0.74-acre planting requirement. The applicant proposes to meet the planting requirement by retaining forest on the agricultural exempt portion of the Subject Property at a 2:1 ratio or, 1.5 acres of existing forest.

The submitted forest conservation plan, SC2017012, is currently under review by Staff and will be approved if the Planning Board approves the minor subdivision.

- 5. All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

Montgomery County Department of Permitting Services in a memorandum dated April 23, 2015 recommended approval of the application with the condition that a stormwater management concept be submitted at time of Preliminary Plan, or if there is no Preliminary Plan then it is to be submitted with the Sediment Control Application

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 JUN 05 2017 (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 Vice Chair Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Fani-González voting in favor, and Commissioner Cichy absent, at its regular meeting held on Thursday, June 1, 2017, in Silver Spring, Maryland.



Casey Anderson, Chairman
Montgomery County Planning Board