



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

MCPB No. 18-045
Preliminary Plan No. 120160180
Glen Mill – Parcel 833
Date of Hearing: June 7, 2018

JUL 02 2018

RESOLUTION

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

WHEREAS, on February 22, 2016, Sara A. Vazer (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create two (2) lots on 2.77 acres of land in the RE-1 zone, located on Glen Mill Road approximately 650 feet east of Boswell Lane (“Subject Property”), in the Potomac Policy Area and *2002 Potomac Subregion Master Plan* (“Master Plan”) area; and

WHEREAS, Subdivision Regulation Amendment 16-01, adopted by the Montgomery County Council on November 15, 2016 as Ordinance No. 18-19, replaced Chapter 50, Subdivision of Land in its entirety, effective February 13, 2017 (“Subdivision Regulations”); and

WHEREAS, Ordinance 18-19 provided that any preliminary plan application filed and certified as complete before the effective date of the Subdivision Regulations may, at the applicant’s option, be reviewed under the Subdivision Regulations in effect when the application was submitted; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120160180, Glen Mill – Parcel 833 (“Preliminary Plan” or “Application”); and

WHEREAS, Applicant opted to have this Preliminary Plan reviewed under the Subdivision Regulations in effect on February 12, 2017; 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 May 25, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

Approved as to
Legal Sufficiency:

8787 Georgia Avenue, Suite 2000, Silver Spring, MD 20910 Chairman’s Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

WHEREAS, on June 7, 2018, 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 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 Preliminary Plan No. 120160180 to create two (2) lots on the Subject Property, subject to the following conditions:¹

1. This Application is limited to two (2) lots for two (2) single-family detached homes.
2. The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan (PFCP), plan number 120160180, approved as part of this Preliminary Plan, including:
 - a. Prior to record plat approval, the Final Forest Conservation Plan (FFCP) must be reviewed and approved by the Planning Board or Planning Director as specified in Section 22A-11(g) of the Forest Conservation Law.
 - b. The FFCP must be consistent with the approved PFCP.
 - c. Prior to record plat approval, the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmentally-sensitive areas as shown on the approved FFCP. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed and the Liber Folio for the easement must be referenced on the record plat.
 - d. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must submit a five-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the PFCP, including the reforestation/afforestation of environmental buffers.
 - e. The limits of disturbance (LOD) on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved PFCP.

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.

- f. Prior to Certified Preliminary Plan, the Applicant must include root pruning and tree protection along the entire length of the Limits of Disturbance on the Preliminary Forest Conservation Plan.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated March 1, 2018, 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. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated April 5, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
5. The Applicant must dedicate and show on the record plat thirty-five (35) feet of dedication from the centerline of Glen Mill Road along the Subject Property's entire frontage.
6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
7. The Planning Board accepts the recommendations of the MCDPS – Water Resources Section in its Final Water Quality Inventory letter dated May 25, 2017, and hereby incorporates 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
8. 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 permits. 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.”

9. The record plat must show all necessary easements.
10. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
11. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.
12. Prior to submittal of a Certified Preliminary Plan and Record Plat, the Applicant must include a 45-foot rear yard building restriction line on Lot 1 as shown on the Preliminary Plan.

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 Preliminary Plan substantially conforms with the recommendations of the 2002 Potomac Subregion Master Plan.

The vision of the Master Plan is to protect the Subregion's natural environment and unique ecosystems, strengthen communities, maintain the transportation network, expand community facilities, and utilize historic preservation to contribute to the Subregion's unique sense of community. The Subject Property is located in the Travilah planning area of the Master Plan. The Master Plan provides no specific recommendations for the Subject Property other than maintaining the RE-1 zoning which would continue the large-lot residential appearance of the planning area.

Planning, Land Use and Buildings

The Master Plan reconfirms the zoning applied to the Subject Property. The Travilah planning area is a low-density area which acts as a transition from the higher densities of the Potomac and North Potomac planning areas to lower densities in Darnestown and the natural environment of the Potomac River.

Travilah is a more rural portion of the Subregion. Generally, the planning area lack of community sewer systems has ensured low-density residential neighborhoods. The Application is an anomaly because the Subject Property abuts a major public sewer main allowing a connection to the public sewer

system. However, the density proposed by the Application conforms to the density of surrounding properties developed on septic systems while allowing the preservation of forest that would have been removed to install a septic system.

Roads

The Master Plan designated this particular section of Glen Mill Road as a Rustic Road section. It identifies this road as having made significant contributions to natural, agricultural, or historic characteristics as well as unusual features which would be negatively affected by modifications. No improvements, with the exception of a new driveway apron onto Glen Mill Road, are proposed on this road. The Rustic Road Advisory Board recommended approval of this Application and construction of the new driveway apron in their letter dated April 14, 2017. The Application will not negatively affect this Rustic Road as recommended by the Master Plan.

Environment

The environmental recommendations in the Master Plan focus on water-quality protection for the watersheds in the Subregion and protecting forests as well as wetlands. The Subject Property is located in the Watts Branch watershed. The Preliminary Plan provides the required stormwater and water quality features to protect the watershed and preserve existing forest under the Montgomery County Code. Low density residential uses in the RE-1 Zone can help maintain good water quality standards. The Application avoids and protects the stream valley buffer and the wetland areas in a Category I Forest Conservation Easement as recommended by the Environmental Resources Section of the Master Plan. Furthermore, the County has approved the Water Quality Inventory as required by the Special Protection Area in order to achieve the goals cited in the Master Plan.

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

Adequate Public Facilities

The transportation Adequate Public Facilities (APF) test is satisfied under the 2012-2016 Subdivision Staging Policy. The Property is located in the Rural West Policy Area, which is exempt from the APF's Transportation Policy Area Review (TPAR) test.

A traffic study is not required to satisfy the APF's Local Area Transportation Review (LATR) test because two new single-family detached houses will not generate more than 30 vehicle trips during weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.

Glen Mill Road is classified as a Rustic Road with 70 feet of right-of-way recommended in the *2002 Potomac Subregion Master Plan*. The Application proposes granting 35 feet of right-of-way from the centerline, which satisfies the requirements of the Master Plan. Because Glen Mill Road is classified as a Rustic Road, no sidewalks or other frontage improvements are proposed or required.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lots. The Subject Property is in the W-1 and S-1 water and sewer service categories, respectively, and will utilize public water and sewer. A sewer hookup has been allowed by the Montgomery County Department of the Environment (MCDEP), in accordance with the Piney Branch Sewer Agreement Recommendations, via the recording of a covenant on the Subject Property. A second sewer hookup is allowed by MCDEP because the Subject Property granted a portion of the easement necessary to construct the Piney Branch Trunk Sewer.

The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on April 5, 2018. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy in effect at the time the Application was submitted.

School Adequacy

The Application was reviewed for school adequacy. The Property associated with this application is located within the Winston Churchill High School cluster and is within the attendance area for Wayside Elementary and Hoover Middle Schools.

Student Generation

To calculate the number of students generated by the proposed development, the number of dwelling units is multiplied by the applicable student generation rate for each school level. Dwelling units are categorized by structure type: single-family detached, single-family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit. The Application proposes to build two new single-family detached houses. Based on the trip generation rates approved by the Subdivision Staging Policy and the proposed development type, the Preliminary Plan will generate 0.41 new elementary school students, 0.22 new middle school students and 0.30 new high school students.

This Application is expected to generate, on average, less than one student at each school level. Because of the negligible impact of this Application, there is adequate cluster and individual school capacity for the amount and type of development proposed.

Cluster Adequacy Test

To test cluster adequacy, the Planning Board must look at the projected August 2022 enrollment for the Churchill Cluster at the elementary, middle and high school levels after considering the student generation of the Preliminary Plan, and compare that to the enrolment threshold that would trigger a moratorium on construction, which is 120% of the programed cluster capacity. The projected enrollment in August 2022 will be below the moratorium threshold at all three school levels, therefore the Preliminary Plan passes the cluster adequacy test.

Individual School Adequacy Test

The Planning Board analyzed the capacity at the individual school level for Wayside Elementary and Hoover Middle Schools. The test looks at the projected 2022 enrollments at both schools and compares it to the moratorium enrollment thresholds of 120% program capacity utilization and seat-deficit levels. The projected enrollment including this Application is below the 120% utilization rate and below the seat deficit for both schools, therefore there is adequate capacity for students for this Application.

Based on the school cluster and individual school-capacity analysis performed, there is adequate cluster and individual school capacity for the amount and type of development proposed by this Application.

- 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.*

The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The proposed lot sizes, widths, shapes and orientations are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, the recommendations of the Rustic Road Advisory Board as well as other County Agencies, and for the building type (single-family homes) contemplated for the Property.

Due to topography and other environmental conditions on the Subject Property, the area most suitable for buildings is the flatter area on the southwest corner of the Property. This location for homes enables gravity feeding of the proposed public sewer extension. Furthermore, this building location pushes the homes

away from the Glen Mill Road, which is a goal and recommendation of the Rustic Road Advisory Board.

While these lots are irregularly shaped, there are other irregular shaped lots in the vicinity of similar size. The Planning Board finds that the lot shapes remain in keeping with the character of the neighborhood. The resubdivision test in Section 50-29(b)(2) “Resubdivision” is not applicable in this case because the Subject Property is an unplatted parcel.

The lots were reviewed for compliance with the dimensional requirements for the RE-1 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area and frontage and can accommodate a building which can reasonably meet the width and setbacks requirements in that zone.

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

- A. Forest Conservation

The Board finds that, as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As required by the County Forest Conservation Law (Chapter 22A of the County Code), a PFCP for the project was submitted with the Preliminary Plan application. The total net tract area for forest conservation purposes is 2.77 acres. The Property is zoned RE-1 and is classified as Medium Density Residential as specified in the Trees Technical Manual.

The Subject Property contains a total of 1.54 acres of forest. The Applicant proposes to remove 0.97 acres of forest that lie outside of the SB and to retain 0.57 acres of forest within the SB. This results in a reforestation/afforestation requirement of 0.46 acres. The Applicant proposes to meet this requirement by installing afforestation plantings of 0.28 acres within the stream buffer as required under Section 22A-12(e)(3) of the Forest Conservation Law and submitting a fee-in-lieu payment for the remaining 0.19 acres.

- B. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection (“Protected

Trees”). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree’s critical root zone (“CRZ”), requires a variance under Section 22A-12(b)(3) (“Variance”). Otherwise such resources must be left in an undisturbed condition.

This Application will require removal or CRZ impact to five Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

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

Granting the variance will not confer a special privilege on the Applicant as the removal of the 4 trees and impacting 1 other is due to the location of the trees and necessary site design requirements. Therefore, the Planning Board finds that the granting of this variance is not a special privilege that would be denied to other applicants.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions, current health conditions of the trees, and necessary design requirements of this preliminary plan application. The 4 specimen trees proposed to be removed (Trees #1, #2, #3 and #7) are located within the active-construction area of the development. Trees #1, #2 and #3 are within the alignment of the proposed entry drive and Tree #7 is located adjacent to the proposed house on Lot 1. All of these trees are in declining health and the impacts of construction will only accelerate their decline, causing these trees to eventually become hazard trees.

3. *The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the existing conditions and not a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not located within a stream buffer. The Application proposes mitigation for the removal of these trees by planting twelve (12) larger caliper overstory trees on-site.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees totaling 36 inches at diameter breast-height of replanted trees. No mitigation is required for Protected Trees impacted but retained.

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.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The Preliminary Plan received an approved water quality inventory from the Montgomery County Department of Permitting Services, Water Resources Section on May 25, 2017. The Application will meet stormwater management goals through the use of drywells and micro-infiltration.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 36 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 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 02 2018 (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 Patterson, seconded by Vice Chair Dreyfuss, with Chair Anderson, Vice Chair Dreyfuss, and Commissioners Fani-González, Cichy, and Patterson voting in favor at its regular meeting held on Thursday, June 21, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board