



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

**MAR 17 2016**

MCPB No. 16-014  
Preliminary Plan No. 120150090  
Mount Prospect  
Date of Hearing: February 18, 2016

**RESOLUTION**

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

WHEREAS, on December 17, 2014, Piney Meetinghouse Investments ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create three lots on 9.48 acres of land in the RE-2 zone, located at the terminus of McCrossin Lane, 1,800 feet southeast of Travilah Road in Potomac, MD ("Subject Property"), in the Rural West Policy Area and 2002 Potomac Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120150090 Mount Prospect, ("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 January 29, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 18, 2016, 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. 120150090 to create three lots on the Subject Property, subject to the following conditions:<sup>1</sup>

<sup>1</sup> 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.

Approved as to  
Legal Sufficiency

*Christopher Smith* 2/29/16  
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1. This Preliminary Plan is limited to three lots for three single-family detached dwelling units.
2. The Certified Preliminary Plan cover sheet must include the following:
  - a. The stormwater management concept approval letter
  - b. The Preliminary Plan Resolution
3. The Certified Preliminary Plan must reference McCrossin Lane as a tertiary road, not a secondary road.
4. The Applicant must dedicate and show on the record plat a dedication of 25-feet of right-of-way from the centerline of McCrossin Lane as shown on the Preliminary Plan.
5. The Applicant must use directional boring to install the septic line for Lot 3 as shown on the Preliminary Plan.
6. The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan no. 120150090, approved as part of this Preliminary Plan, including the following:
  - a. The Applicant must plant at least 30.5 caliper inches of native canopy trees on the Subject Property within one year or 2 growing seasons after the development project is complete. The trees must be a minimum of a three-inch caliper size.
  - b. A revised Final Forest Conservation Plan (FFCP) must be submitted and approved prior to plat recordation that addresses the following:
    - i. Show the location of permanent Category I Conservation Easement signs along the perimeter of the conservation easement area.
    - ii. Show the location of split rail fencing that will be required at the easement boundaries in the vicinity of residential properties.
    - iii. Type and location of mitigation trees must be shown on the FFCP.
  - c. Conservation easement signs and split rail fencing, or Staff approved equivalent, must be installed prior to any land disturbing activity.
  - d. In addition to the requirement for the septic line for Lot 3 to be directionally bored, the Applicant must abide by the specific tree protection plan on the Forest Conservation Plan, including root pruning, mulch root protection matting, and tree protection fencing.
  - e. The Applicant must follow the specific notes on the Final Forest Conservation Plan addressing the details of maintenance and access of the primary septic field trench for Lot 3.
  - f. The Applicant must submit a Category I Forest Conservation Easement which reflects the notes and conditions for activities associated with the access and maintenance of the septic field.



7. A Category I Conservation Easement must be placed over all areas of forest planting, forest retention, and Stream Valley Buffer. The Category I Conservation Easement must be approved by the M-NCPPC Office of the General Counsel and be recorded in the Montgomery County Land Records by deed prior to demolition, clearing, or grading and the Liber/Folio for the easement must be referenced on the record plat.
8. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated March 19, 2015 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.
9. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
10. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated August 24, 2015, 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.
11. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Well and Septic Section in its letter dated May 7, 2015, 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 and Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
12. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
13. 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."*

14. The record plat must show necessary easements.
15. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
16. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.

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 Subject Property is located in the Travilah community, as designated in the 2002 Potomac Subregion Master Plan. The Master Plan is silent on this specific Property, but describes Travilah thus:

*"This central and southern portion of the Potomac Subregion is a low-density area that acts as a transition from the higher densities of Potomac and North Potomac to lower densities in Darnestown and the natural environment of the Potomac River. This community is under intense development pressure and contains natural features of County and State significance.... Like Darnestown, Travilah is a more rural portion of the Subregion, and the area's dependence on septic systems has ensured low-density residential neighborhoods...The area is dominated by low-density, single-family detached residential development in the R-200, RE-1, RE-2, and RE-2C Zones, (p. 80). "*

The stream that runs through the eastern side on the Property is part of Sandy Branch, a tributary of the Watts Branch. The Master Plan states:



*"Protecting the Subregion's water resources is critical. The area contains several exceptionally healthy aquatic ecosystems. In addition, the Watts Branch drains to the Potomac River just north and upstream of the WSSC Potomac Water Filtration Plant, directly affecting raw water quality, (p. 13)."*

Of the Watts Branch Watershed, the Master Plan states:

*"Watts Branch has the highest concentration of unique environmental features in the Subregion. Although Watts Branch watershed has its headwaters outside the Subregion, it has three significant tributaries—Piney Branch, Greenbriar Branch, and Sandy Branch—that are large, highly sensitive, and whose headwaters lie entirely within the Subregion. Water quality in Watts Branch is generally fair with the exception of two subshed in Piney Branch and Lower Sandy Branch which have good water quality, (p. 16)."*

The Preliminary Plan includes three lots for three single-family detached dwellings on private well and septic systems, which is consistent with the low density development recommended in the Master Plan. The land use and density approved for this Property is consistent with the RE-2 zoning in place and the recommendations of the Master Plan. The three lots are below the maximum density of four lots permitted on the Property under the RE-2 zone. Lot 3 is at the eastern side of the Property, and includes the on-site stream and stream valley buffer. Based on the recommendations of the Master Plan for projects in the Watts Branch watershed and the Sandy Branch tributary, additional protective measures are being implemented to protect the Subregion's water resources. Condition 5 requires that the septic line for Lot 3 be directionally bored under the stream and buffer which is discussed in greater detail in the environmental section of this Resolution. With condition 5 and the additional forest planting as described in the environmental section below, the Application substantially conforms with the recommendations adopted in the Master Plan.

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

The Subject Property is located at the terminus of McCrossin Lane in Potomac. The three houses will have their own driveways that will connect to one 20-foot wide shared driveway that will access the cul-de-sac at the terminus of McCrossin Lane. Vehicle parking is provided on-site on driveways and/or in garages.

McCrossin Lane is classified as a tertiary road with a 50-foot wide right-of-way per MCDOT cross section (MC-210.05). The Applicant is dedicating right-of-way along their frontage of McCrossin Lane to meet the right-of-way requirement, which is 25 feet from the centerline of the road. A sidewalk is not required along



the Property frontage because the Property fronts on a tertiary road and is zoned RE-2. Access to the lots will be from the new shared driveway.

The closest transit service is Ride-On Route 67, which is over one mile from the Subject Property. The closest stop is at Travilah Road and Dufief Mill Road. The route connects the Traville Transit Center to the Shady Grove Metrorail Station with peak directional service every 30 minutes during the AM and PM peak period. In the morning the route runs from the Traville Transit Center to the Shady Grove Metrorail Station and does the reverse trip in the afternoon.

#### Master Plan Transportation Facilities

The 2002 Approved and Adopted Potomac Subregion Master Plan and the 2005 Approved and Adopted Countywide Bikeways Functional Master Plan do not have recommendations for nearby roadway or bikeway facilities that affect the Subject Property.

#### Local Area Transportation Review (LATR)

As conditioned, the Preliminary Plan for the approved use with three single family detached homes does not trigger LATR as the three new homes will only generate three additional trips in the AM and PM peak hour. The threshold for an LATR review, according to the *LATR and TPAR Guidelines*, is 30 net new additional trips.

#### Transportation Policy Area Review (TPAR)

The Property is located in the Rural West Policy Area. According to the 2012-2016 Subdivision Staging Policy (SSP), the Rural West Area is exempt from the roadway test and transit test; therefore, no TPAR General District Transportation Impact Tax is required.

#### Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the lots. An on-site well and septic system will serve each dwelling unit. As conditioned, the Applicant will bore the line under the stream and floodplain by using directional boring instead of trenching. Directional boring will minimize the impact to the stream valley buffer, and related environmental features.

The Preliminary Plan has been evaluated by Staff and the Montgomery County Department of Transportation, who support the transportation elements of the



Plan. The access to the Subject Property and the individual lots, as shown on the Preliminary Plan, is adequate to serve the traffic generated by the development.

The Application has been reviewed by the Montgomery County Department of Fire and Rescue Service who determined that the Property has adequate access for fire and rescue vehicles by transmittal dated March 10, 2015. As specified in the Fire and Rescue approval documents and shown on the Preliminary Plan, the Applicant will install a 30,000-gallon underground water storage tank along the frontage of the Property parallel to the driveway, within the shared access easement.

The Subject Property is within the Thomas S. Wootton High School cluster. According to the 2012-2016 Subdivision Staging Policy, the schools in the Wootton Cluster are operating at an adequate level to serve the dwellings. The Application is not subject to a School Facilities Payment. Electric and telecommunications services are available and adequate to serve the lots. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the 2012-2016 Subdivision Staging Policy Resolution currently in effect.

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, the Subdivision Regulations and meets all applicable sections. The lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations included in the Potomac Subregion Master Plan, and for development of single-family detached homes.

The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lots as approved will meet all the dimensional requirements for area, frontage, width, and setbacks in the RE-2 zone as described below.

As approved, Lot 1 is 2.2 acres, Lot 2 is 2.1 acres, and Lot 3 is 5.1 acres, all of which meet the 2-acre minimum lot area required in the RE-2 zone. Lot 3 is more than twice the size of the other lots because it includes the 3.08 acres encumbered by stream valley buffer and floodplain that will be placed in a conservation easement. The shape and orientation of the lots are appropriate given the location of the subdivision. The surrounding area contains lots with



various shapes including pipe stems. Many of the other pipe stem lots are located along the stream valley with houses oriented in a way that preserves the sensitive environmental features of the land. All three lots are pipe stems, which is consistent with development of similar lots in the surrounding area. All three lots meet the minimum 25 feet of frontage requirement in the RE-2 zone and exceed the required 150-foot lot width at the front building line. The Application has been reviewed by other applicable county agencies, all of whom 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.*

A. Forest Conservation

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

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No. 420150120 was approved for the 9.48-acre Subject Property on September 12, 2014. The Subject Property includes a stream and associated Stream Valley Buffer along the east side of the Property. There are 4.72 acres of existing forest onsite. The Property contains 3.08 acres of SVB of which 2.74 acres contains forest. The Property also contains 0.84 acres of 100-year floodplain.

The septic area for Lot 3 will be located in the southeast corner of the Property. This portion of the Property is forested but outside the SVB. However, the rear of Lot 3 and the southeast corner are separated by a perennial stream and its associated SVB. The Applicant worked with Staff to develop a plan that provides access to the isolated southeast corner while providing protection and mitigation for the intervening environmentally sensitive areas. The Applicant has minimized the limits of disturbance within the SVB, provided directional boring of the proposed septic line, and proposed 0.39 acres of mitigation forest planting within unforested SVB.

The septic line in addition to being directionally bored includes a tree protection plan that includes root pruning, mulch root protection matting, and tree protection fencing. Specific notes have been added to the FCP to address the details of maintenance and access of the primary septic field trench. Additionally, the Applicant will submit a Category I Conservation Easement which reflects the notes and conditions for activities associated with the access and maintenance of the septic filed.



The plan is consistent with the Environmental Guidelines and provides protection for the environmentally sensitive areas and additional planting of unforested SVB.

#### Forest Conservation

The Preliminary Plan meets all applicable requirements of the county Forest Conservation Law. The Forest Conservation Plan (FCP) contains 9.48 acres of net tract area. The FCP proposes 1.27 acres of forest clearing and retention of 3.45 acres of existing forest which will be placed in a Category I Forest Conservation Easement. The Property has a 2.77-acre conservation threshold under the Medium Density Residential land use category. No forest planting mitigation is required because the proposal is above the break-even point (clearing permitted without mitigation).

While there is no planting requirement as per the worksheet, the Applicant is providing 0.39 acres of forest planting and mitigation for environmental impacts mentioned above. The new forest plantings will be covered by Category I conservation easement, a two-year maintenance and management agreement, and financial security such as a performance bond.

#### 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 the removal or CRZ impact to 38 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. Given the zoning, the property size, the design requirements including the well and septic regulations, the environmental buffers, and the amount of forest and trees, the variance tree impacts are necessary and not allowing the specimen tree impacts and removals would be an unwarranted hardship and is detailed as follows:



The Property is zoned RE-2 and the total area subject to the associated Forest Conservation Plan includes 9.48 acres with 4.72 acres of forest. The forest on-site is spread across the Property in two forest stands with a significant amount of tree canopy and specimen trees in between the stands. There are one hundred thirty-two significant and specimen trees in and around the Property which includes fifty-nine specimen trees.

Per the zoning, the maximum density allowed is four. Due to public sewer service not being available to the Property the development must utilize on-site individual sewage disposal systems. The available areas that were found to be adequate for these facilities have dictated much of the subdivision layout and resulted in many of the impacts to specimen trees. Because of well and septic design requirements only three houses with suitable wells and sewage disposal areas were achievable.

On September 4, 2015, the Applicant requested a variance for removal of eight (8) and impacts to thirty (30) Protected Trees. These trees are listed in a chart included in the Applicant's Variance Request and also on page one of the submitted FCP.

Based on the following justifications, the Applicant has met all criteria required to grant the variance for the removal of eight (8) Protected Trees, shown in red below and impacts to thirty (30) Protected Trees, shown in green below, subject to the variance provision.

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 of the variance is not unique to this Applicant. This type of development is typical and the variance will not confer on the Applicant 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 variance is not based on conditions or circumstances which are the result of the action by the Applicant, but rather on the site conditions and the zone for this area. There are no feasible options to reconfigure this three-lot subdivision to avoid impact to the Protected 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 not related in any way to a condition on an adjacent, 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. No trees located within a stream buffer, wetland or special protection area (SPA) will be removed as part of this Application. The Applicant proposes to remove the existing club building which is partially within the stream valley buffer. There is also an existing shed behind the club building that is entirely within the stream buffer which will be removed by hand. Additionally, the unforested stream buffer located on the Property will be planted with forest and protected in a Category I Conservation Easement. In addition, the Montgomery County Department of Permitting Services has found the stormwater management concept for the project to be acceptable as stated in a letter dated August 25, 2015. The stormwater management concept incorporates Environmental Site Design standards.

#### Mitigation for Trees Subject to the Variance Provision

There are eight Protected Trees proposed for removal in this variance request. Four trees are located within areas of forest; the forest conservation worksheet already provides mitigation for forest clearing so no additional mitigation is recommended for these trees.

There are four trees located outside of forested areas and not covered by the mitigation provided from the forest conservation worksheet. Mitigation for the removal of these trees is recommended and Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, replacement must occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" DBH. This means that for the 122 caliper inches of Protected Trees proposed for removal (outside of forested areas), they will be mitigated by the Applicant by planting 30.5 caliper inches of trees, with a minimum size of 3" DBH on the site.



While the trees recommended for mitigation will not be as large as the trees lost, they will provide some immediate canopy and ultimately replace the canopy lost by the removal of these trees.

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 MCDPS Stormwater Management Section approved the stormwater management concept for the project on August 24, 2015 which includes using on-site dry wells, grass swales and microbioretention to meet the require stormwater management goals.

BE IT FURTHER RESOLVED that this 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 Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be; 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 MAR 17 2016 (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

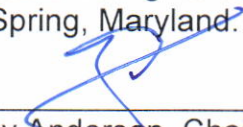


Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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**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 Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor at its regular meeting held on Thursday, March 3, 2016, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board