



MCPB No. 16-087
 Preliminary Plan No. 120150140
 Schramm Property
 Date of Hearing: September 8, 2016

SEP 21 2016

RESOLUTION

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

WHEREAS, on January 8, 2015, Jeffrey Schramm ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 2.63 acres of land in the RE-2 zone, located on the north side of Warfield Road, approximately 700 feet east of Doubleland Road ("Subject Property"), in the Rural East Policy Area and Preservation of Agriculture and Rural Open Space Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120150140, Schramm Property ("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 August 26, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 8, 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. 120150140 to create one lot on the Subject Property, subject to the following conditions:¹

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.

Approved as to
 Legal Sufficiency:

8787 Georgia Avenue, Spring, Maryland, 21151 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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1. This Preliminary Plan is limited to one lot for one single-family dwelling unit.
2. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the Certified Preliminary Plan approval or cover sheet(s).
3. The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan No. 120150140, approved as part of this Preliminary Plan, subject to the following conditions:
 - a) The Applicant must record a Category I Conservation Easement over all areas of forest retention as specified on the approved Forest Conservation Plan.
 - b) A 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 prior to demolition, clearing, or grading and the Liber Folio for the easement must be referenced on the record plat.
 - c) The Applicant must install permanent Category I Conservation Easement signage along the perimeter of the conservation easements.
 - d) The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
 - e) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
4. The Applicant must dedicate and show on the record plat a dedication of 35-feet of right-of-way from the centerline of Warfield Road as shown on the Preliminary Plan.
5. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated December 16, 2015, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. Prior to plat recordation, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
7. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its

stormwater management concept letter dated December 8, 2014, 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 Planning Board has accepted the recommendations of MCDPS – Well and Septic Section in its letter dated June 8, 2016, 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 – Well and 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 record plat must show necessary easements.

11. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for 85 months from the date of mailing of this Planning Board Resolution.

12. The Subject Property is within the Gaithersburg School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the elementary school, middle school and high school levels at the single-family detached unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

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 substantially conforms with the recommendations adopted in the Preservation of Agricultural and Rural Open Space (AROS) Master Plan in that the Subject Property is being developed at a density consistent with the recommended density permitted under the RE-2 zone. The Subject Property is located in the Central Sector of the AROS Master Plan, and specifically in the P.A. 14 - Goshen Woodfield, Cedar Grove and Vicinity area (Figure D). The AROS Master Plan confirmed an existing 7,689 acres of RE-2 zoning in this area, and acknowledged an abundance of subdivisions that have already occurred in the RE-2 zoned areas between Gaithersburg and Damascus (p. 53).

The AROS Master Plan did not make specific land use recommendations for the Subject Property, but includes general recommendations for the surrounding planning area. Converting the Subject Property from a parcel to a single lot for a single-family detached dwelling is consistent with the RE-2 zoning recommended by the AROS Master Plan. The subdivision is a continuation of the residential densities found throughout the Goshen Woodfield, Cedar Grove and Vicinity area.

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

Roads and Transportation Facilities

The lot has frontage on Warfield Road (P-1) which is classified as a primary residential road (Montgomery County Road Code Standard Number MC-212.03) with 24 feet of pavement and total Master Planned right-of-way width of 70 feet. The Applicant is dedicating 3,835 square feet (0.09 acres) along the Subject Property's frontage to achieve the full Master Planned right-of-way width necessary for Warfield Road.

The Applicant will construct a 10-foot wide asphalt driveway to provide vehicular access to the lot from Warfield Road. Vehicle parking is provided on-site on driveways and/or in garages. The Application has been reviewed by the MCDOT which determined that the Subject Property has adequate vehicular access and sight distance (see letter dated December 16, 2015). Vehicle and pedestrian access for the subdivision will be adequate with the existing public improvements. A sidewalk is not required because the Subject Property is zoned RE-2, within the rural area according to the County Road Code.

Local Area Transportation Review (LATR) & Transportation Policy Area Review (TPAR)

The Preliminary Plan will generate fewer than three trips during the morning and evening peak hours, and consequently is exempt from both Local Area Transportation Policy Review and Transportation Policy Area Review. The Preliminary Plan satisfies Adequate Public Facilities (APF) requirements and does not necessitate further traffic analysis. In consideration of the *de minimis* traffic impact, the vehicle access will be adequate to serve the proposed subdivision.

The Preliminary Plan has been evaluated by Staff and the Montgomery County Department of Transportation, who support the transportation elements of the Application. The proposed driveway access, as shown on the Preliminary Plan, is adequate to serve the Subject Property.

Other Public Facilities and Services

All other public facilities and services including electric, telecommunication, police and health services are available and adequate to support and serve the proposed dwelling unit. The Subject Property is located in the W-3 and S-1 water and sewer service categories which permit public water and sewer connections. Although intended for public water use, public water mains are not currently available to this site; the expected cost and timing for a water main extension to serve this property favors the temporary use of a well. The use of a well to support the development of this property is acceptable as proposed, per MCDPS – Well & Septic Section correspondence dated June 8, 2016. Category S-1 was approved under the “abutting mains” policy which restricts sewer service to only a single hookup for the Property. The Preliminary Plan for one single-family house satisfies this restriction. The Washington Suburban Sanitation Commission has determined that the existing 8-inch sewer line in Warfield Road is adequately sized, and can be extended, to serve the lot.

The Application has been reviewed by the Montgomery County Department of Fire and Rescue Service which determined that the Property has adequate access for fire and rescue vehicles by transmittal dated August 22, 2016.

The Subject Property is in the Gaithersburg High School Cluster which is operating at an inadequate level (more than 105 percent utilization) at the elementary school (112.14 percent), middle school (107.5 percent) and high school (107.6 percent) level according to the current Subdivision Staging Policy. Therefore, the Applicant must make a School Facilities Payment to

MCDPS at the elementary, middle, and high school levels at the single-family detached unit rates for all unit for which a building permit is issued. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code. Other public facilities and services, police stations, firehouses and health services are currently operating within the standards set by the 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 proposed lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations for limited development included in the Preservation of Agricultural and Rural Open Space Master Plan, and for development of a single-family detached home in the RE-2 zone. The proposed lot is in conformance with the dimensional requirements of the RE-2 zone which was the zoning recommended by the AROS Master Plan. This zone was recommended to continue the existing land use patterns already in place at the time of the adoption of the AROS Plan in 1980.

The lot were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, and width in the RE-2 zone and the RE-2 setbacks provide sufficient room to locate a house on the Property. 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.*

A. Forest Conservation

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

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) 420142020 for the Subject Property was approved in July 2014. The

NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The Subject Property is not located within a Special Protection Area (SPA). The NRI/FSD calls out the site to be a total of 2.72 acres of which 1.47 acres are forest separated into two forest stands. The site does not contain any streams, wetlands, floodplains, environmental buffers, or steep slopes.

A forest conservation plan (FCP) was submitted for review as part of the Application. The Application shows 0.54 acre of forest clearing and 0.93-acre forest retention. According to the FCP worksheet, development and associated clearing on the Property does not generate a planting requirement. All areas of retained forest will be protected by a Category I Conservation Easement.

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 three 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 one tree and impact to two others is due to the location of the trees and necessary site design requirements where the home is to be located in the most reasonable portion of the Property. The Applicant will be required to mitigate the loss of the one specimen tree. Therefore, Staff believes 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 and necessary design requirements that are reasonable for this project.

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 as 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 removal of the variance tree will not cause there to be a violation of State water quality standards or cause measurable degradation in water quality. The specimen tree being removed is not located within a stream buffer. The Application proposes mitigation for the removal of the one tree by planting larger caliper trees on-site. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

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 at a ratio of approximately one quarter of the number of inches replanted. This results in a total mitigation of 8.5 inches of replanted trees ($34/4= 8.5$). In this case, the Applicant proposes to plant three 3" caliper overstory trees native to the Piedmont Region of Maryland on the Property. 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.*

The MCDPS - Water Resources Section approved a stormwater management concept for the development on December 8, 2014. The approved concept will meet stormwater management goals through the use of micro biofiltration.

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 SEP 21 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).

* * * * *

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 Cichy, with Chair Anderson, Vice Chair Wells-Harley, and Commissioner Cichy voting in favor, and Commissioners Dreyfuss and Fani-González absent at its regular meeting held on Thursday, September 8, 2016, in Silver Spring, Maryland



Casey Anderson, Chair
Montgomery County Planning Board