



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

MCPB No. 17-035
Pre-Preliminary Plan No. 720150040
19701 Lyndenwood
Date of Hearing: May 25, 2017

MAY 31 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 16, 2016, Tony Chamblin. ("Applicant") filed an application for approval of a pre-preliminary plan of subdivision of property that would create one lot on 13.96 acres of land in the AR zone, located at 19701 Lyndenwood Avenue approximately 1,000 feet east of Beallsville 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. 720150040, 19701 Lyndenwood ("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 May 11, 2017, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 25, 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 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 Pre-Preliminary Plan No. 720150040 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: 

1. This Pre-Preliminary Plan is limited to one lot for one single-family detached home.
2. 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.
3. Applicant must submit a stormwater management concept with the Sediment Control Application to DPS.
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 RDT and established it as a possible Transfer of Development Rights (TDR) sending area.

The subject property is undeveloped and includes environmentally sensitive areas. The proposed lot will be created in the same size, shape and configuration 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, the Application is in substantial conformance to the Master Plan.

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

Public Facilities

Roads and Transportation Facilities

No right-of-way dedication is required for Lyndenwood Avenue because it is already terminated in a hammerhead within the existing 60-foot Right-of-Way (Figure 3). A public turnaround will be built and maintained within a public use easement that will be established on the record plat. The Application, which has also been accepted by Fire code enforcement.

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 a new driveway onto Lyndenwood Avenue. Vehicular and pedestrian access for the subdivision will be adequate.

Adequate Public Facilities

The transportation Adequate Public Facilities (APF) test is satisfied under the 2012-2016 Subdivision Staging Policy since the application was submitted prior to January 1, 2017.

Local Area Transportation Review

A traffic study is not required to satisfy the APF's Local Area Transportation Review (LATR) test because one new single-family detached unit does not generate 30 or more vehicle trips during the weekday morning or evening peak-hours. Therefore, the Application is not subject to LATR.

Transportation Policy Area Review

The property is located within the Rural West Policy Area for the Transportation Policy Area Review (TPAR) test, which makes it exempt for both roadway and transit tests in accordance with the 2012-2016 Subdivision Staging Policy. However, any building permit issued after March 1st, 2017 will be subject to 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 June 2, 2016. (Attachment 2).

The application 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 June 2, 2016 (Attachment 3).

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 property is located within 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 for any structure before March 11st, 2017, the Applicant will need to pay the impact fees based on the Subdivision Staging Policy 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 "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 the minimum necessary to accommodate the house and an on-site well and septic in order to maximize agricultural opportunities elsewhere on farmed properties. Generally, that has resulted in lots that are under three 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 13.96-acre lot envelops the entire parcel as it existed prior to 1981, and will not change the farmable area available. The farmable area the parcel will not change because the parcel is not currently being farmed and is in an undeveloped and fallow state. In addition, under the grandfathering provision of 59.7.7.1.D.9.a, the entirety of the parcel must be platted which essentially precludes the ability to reduce the lot size to anything less than the entire 13.96-acre tract.

Section 50-35A(a)(8) (Minor Subdivision) requirements

The parcel 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 June 2, 2016. (Attachment 2)

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

No dedication is required 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 13.96-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 13.96-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, SC2017018, is currently under review by Staff and will be approved if the Planning Board approves the minor subdivision.

Density in the RDT zone

Per Section 59.4.2.1.F of the Zoning Ordinance, only one single-family dwelling unit per 25 acres is permitted in the AR zone. A development right must be retained for each single family dwelling. The subject property is approximately 13.96 acres in size and would have been assigned two TDRs as part of the rezoning in 1980 that established the old RDT zone. The property cannot be platted under the current zoning standards, however there is an exemption under 59.7.7.1.D.9.a of the Zoning Ordinance. A lot or parcel in the Agricultural Reserve (AR) zone is exempt from the minimum lot area requirements and lot width requirements of the AR zone, but must satisfy the requirements of the zone applicable to it before its classification to the AR

zone if the lot or parcel was created before January 6, 1981. Parcel 511 has been in the same size, shape, and configuration since prior to January 6, 1981 and can be platted under the size requirement of the Rural Zone, which is five acres.

As conditioned, prior to recordation of a plat the Applicant must provide verification for Staff approval of the availability of a development right for the lot shown on the plat and the plat must include a note referencing such.

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 4) for the Property was approved on February 24, 2014 and recertified on March 29, 2016. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. There are 13.96 acres of forest, 1.5 acres of wetlands, 2.82 acres of 100-year floodplain, 8.1 acres of stream buffer, and multiple streams. There are no environmental impacts associated with this application, other than the clearing of forest.

Forest Conservation

The Forest Conservation Plan will retain 9.48 acres of existing forest, clear 4.48 acres of forest, and does not generate any additional planting requirement.

The submitted forest conservation plan, SC2017018, 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 at the Development Review committee meeting on December 8, 2014 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 MAY 31 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).

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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 Commissioner Cichy, seconded by Vice Chair Wells-Harley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Fani-González, and Cichy voting in favor at its regular meeting held on Thursday, May 25, 2017, in Silver Spring, Maryland.



Casey Anderson, Chairman
Montgomery County Planning Board