



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

MCPB No. 16-127
Preliminary Plan No. 120160150
Beallmount Grove, Parcel 2
Date of Hearing: November 17, 2016

NOV 22 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 29, 2016, Lyle E. Gramley Revocable Trust (“Applicant”) filed an application for approval of a preliminary plan of subdivision of property that would create three lots on 9.6 acres of land in the RE-2 zone, located at 12901 Three Sisters Road (“Subject Property”), in the Rural West Policy Area and 2002 Potomac Subregion Master Plan (“Master Plan”) area; and

WHEREAS, Applicant’s preliminary plan application was designated Preliminary Plan No. 120160150, Beallmount Grove, Parcel 2 (“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 November 4, 2016, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on November 17, 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. 120160150 to create three lots 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 Application is limited to three (3) lots for three (3) single family detached homes.
2. The Applicant must comply with the conditions of approval for the Preliminary/Final Forest Conservation Plan No. 120160150, approved as part of this Preliminary Plan, including:
 - a. Applicant must have all required site inspections performed by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - b. The Applicant must record a Category I Conservation Easement over all areas of forest retention, and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement, in a form approved by the M-NCPPC Office of the General Counsel, must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.
 - c. Prior to the start of any demolition, clearing or grading on the Subject Property, the Applicant must provide financial surety to the Montgomery County Planning Department for the 1.46 acres of new forest planting.
 - d. Prior to the start of any demolition, clearing or grading on the Subject Property, the Applicant must execute a two-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel. The maintenance and management agreement is required for all retained forest and forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
 - e. The Applicant must install permanent forest conservation easement signage along the perimeter of the conservation easements in all areas, as determined by the Preliminary/Final Forest Conservation Plan (FFCP) and the M-NCPPC forest conservation inspector.
 - f. The Applicant must comply with all tree protection and tree save measures shown on the approved Preliminary/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.
 - g. The limits of disturbance (LOD) on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Preliminary/Final Forest Conservation Plan.

3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated May 5, 2016, 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 existing house on the Subject Project must be razed prior to the recording of a record plat.
5. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
6. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
7. 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 April 12 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 – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
8. The Planning Board accepts the recommendations of the MCDPS – Well and Septic Section in its letter dated May 23, 2016, 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.
9. The Applicant must widen Three Sisters Road from approximately 18 feet in width to 20 feet in accordance with MCDOT Road Code Standard 211.02 from the Subject Property to Glen Road.
10. 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.”

11. Record plat must show all necessary easements.
12. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the 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 Planning Board finds that Preliminary Plan substantially conforms with the recommendations of the 2002 Master Plan.

Main objectives of the Master Plan include protection of the natural environment, unique ecosystems, strengthening 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 to recommend the RE-2 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. The Application conforms to the general

guidance of the Master Plan by providing a low-density residential development served by septic systems.

Transportation and Environment

The Master Plan's Transportation Section does not identify Three Sisters Road as a master planned road; however, the road is a publicly dedicated and maintained roadway. Three Sister's Road does connect to Glen Road, a rustic road. The Master Plan's Transportation Section seeks to preserve the Subregion's existing character via the two-lane road policy and the rustic roads program. The Application is consistent with the guidance of the Master Plan. The width of Three Sister's Road will be increased from 18 to 20 feet to meet fire department code requirements and will also meet the 20-foot-wide section which is the minimum accepted pavement width for a two-way road in the Road Code.

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 Sandy Branch tributary to the greater Watts Branch watershed. The Preliminary Plan provides the required stormwater and water quality features to protect the watershed and preserve existing forest under Montgomery County Code. Low density residential uses in the RE-2 Zone can help maintain good water quality standards.

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

Roads and Transportation Facilities

The Planning Board finds the Adequate Public Facilities (APF) test is satisfied under the current 2012-2016 Subdivision Staging Policy. The Site is located in the Rural West Policy Area which is exempt from the APF's Transportation Policy Area Review (TPAR) test, thus not requiring a transportation/development impact tax payment.

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

Three Sisters Road is a secondary residential street with 60 feet of right-of-way. The right-of-way granted with the recording of Plat No. 6716 was 60 feet in width, therefore, no additional right-of-way dedication is necessary as part of this Application.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the lots. The Subject Property has W-6 and S-6 water and sewer service categories, respectively, and will utilize on-site septic systems and water wells.

The Application was reviewed by the Montgomery County Fire Marshal's ("MCFRS") office, and a Fire Access Plan was approved on April 14, 2016.

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 Resolution currently in effect. The Application is located in the Winston Churchill School cluster, which is not identified as a school moratorium area, and is not subject to a School Facilities Payment.

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 Planning Board finds that Preliminary Plan meets all applicable sections of the Subdivision Regulations. The lot sizes, widths, shapes and orientations are appropriate for the location of the subdivision, taking into account the design recommendations included in the Master Plan, and for the building type (single family homes) contemplated for the Site.

The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lots meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The Preliminary Plan has been reviewed by other applicable county agencies, all of whom have recommended approval.

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.

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved for the Subject Property on March 20, 2015. The NRI/FSD delineates 0.50 acre of forest in the southeast corner of the Subject Property, but no other environmentally sensitive features are shown on the Site. A Preliminary/Final Forest Conservation Plan has been submitted for review as part of this Application (Attachment 3).

Based on the size of this parcel and the Land Use Category on the Forest Conservation Worksheet, development of this Site results in a 1.96-acres

afforestation threshold. The Applicant meets this requirement by retaining the existing 0.50 acres of forest and planting an additional 1.46 acres on-site. Both the retained and planted forest will be placed into 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 the removal or CRZ impact to ten 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 impacting the five trees and the removal of the five trees is due to the location of the trees and necessary site design requirements. The Applicant proposes removal of the five trees with mitigation. 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 variance is not based on conditions or circumstances that are the result of actions by the Applicant. The requested variance is based upon the existing Site conditions and necessary design requirements of this application.

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 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.*

There are five trees to be removed in this variance request, which when added together results in a total of 183 inches of DBH being removed. For removal of specimen trees associated with a variance request, Staff recommends mitigation for the tree loss by replacing $\frac{1}{4}$ of the total number of DBH removed with replanted trees. This results in a total mitigation of 45.75 inches of replanted trees. In this case, the Applicant proposes to plant fifteen 3" caliper overstory trees native to the Piedmont Region of Maryland on the Subject Property outside of the right-of-way for Three Sisters Road, outside of any utility easements and these trees are not to be counted as an element of the Site screening requirements.

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 stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on April 12, 2016. The Application will meet stormwater management goals for each new lot via environmentally sensitive design to the maximum extent practicable with the use of landscape infiltration, micro-biotention and drywells.

6. *The approved lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood, as delineated in the Staff Report.*

Frontage: The lots are of the similar character as existing lots in the Neighborhood with respect to lot frontage. The lots have frontages of 267.3 feet, 25 feet, and 249.9 feet for Lots 33-35, respectively. In the Neighborhood, the range of corner lot frontages is between 25 and 632.8 feet.

Alignment: The lots are of the same character as existing lots in the Neighborhood with respect to alignment. The alignment of the lots is

perpendicular to the street. Lots in the Neighborhood are a mix of perpendicular, corner and, angled alignments.

Size: The lot sizes are in character with the size of existing lots in the Neighborhood. The lot sizes are 164,734 square feet, 165,355 square feet, and 91,346 square feet for Lots 33-35, respectively. The range of lot sizes in the Neighborhood is between 87,120 square feet and 429,763 square feet.

Shape: The shape of the lots is in character with shapes of the existing lots in the Neighborhood. The lots contain two irregular shapes and one pipestem. The Neighborhood contains mostly irregular lot shapes and four pipestem shaped lots.

Width: (at the BRL)

The lots are similar in character with existing lots in the Neighborhood with respect to width. The width of the lots are 266.1 feet, 340.4 feet, and 259.2 feet for Lots 33-35, respectively. The range of lot widths within the Neighborhood is between 150 feet and 630.1 feet.

Area:

The lots are of the same character as existing lots in the Neighborhood with respect to buildable area. The lots have a buildable area of 123,166 square feet, 121,162 square feet, and 59,998 square feet. The range of buildable areas within the Neighborhood is between 46,261 square feet and 355,562 square feet.

Width: The lots are similar in character with existing lots in the Neighborhood with respect to width. The width of the lots are 266.1 feet, 340.4 feet, and 259.2 feet for Lots 33-35, respectively. The range of lot widths within the Neighborhood is between 150 feet and 630.1 feet.

Area:

The lots are of the same character as existing lots in the Neighborhood with respect to buildable area. The lots have a buildable area of 123,166 square feet, 121,162 square feet, and 59,998 square feet. The range of buildable areas within the Neighborhood is between 46,261 square feet and 355,562 square feet.

Suitability for Residential Use: The existing and approved lots within the identified Neighborhood are all zoned RE-2 and are suitable for residential use.

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 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 NOV 22 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 Commissioner Dreyfuss, 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, November 17, 2016, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board