



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

MCPB No. 19-008  
Preliminary Plan No. 12007071A  
Clarksburg Animal Hospital  
Date of Hearing: January 24, 2019

MAR 14 2019

**RESOLUTION**

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

WHEREAS, on December 13, 2007, the Planning Board, by Resolution MCPB No. 07-211, approved Preliminary Plan No. 120070710, creating 1 lot on 5.6 acres of land in the RDT zone, located in the southeast quadrant of the intersection of Lewisdale Road and Prescott Road ("Subject Property"), in the Rural East Policy Area and 1982/1985 Damascus Master Plan ("Master Plan") area; and

WHEREAS, on April 24, 2018, Clarksburg Animal Hospital, Inc. and Mashed Potato Properties, LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to change a condition of approval to allow a veterinary office on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12007071A, Clarksburg Animal Hospital ("Preliminary Plan," "Amendment," 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 10, 2019, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on January 24, 2019, 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, on January 24, 2019, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss, seconded by Commissioner Fani-Gonzalez, with a vote of 4-0; Commissioners Anderson, Cichy, Dreyfuss, and Fani-Gonzalez voting in favor and Commissioner Patterson absent.

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Approved as to

Legal Sufficiency:   
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MNCPPC Legal Department  
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NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 12007071A to allow a veterinary office on the Subject Property subject to the following conditions:<sup>1</sup>

1. This Preliminary Plan Amendment allows for one lot for a veterinary office up to 4,050 square feet.
2. The Applicant must comply with the conditions of approval of the Hearing Examiner's Report and Decision for Conditional Use Case No. CU-18-07 issued October 17, 2018 and as modified on October 26, 2018.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated December 27, 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 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 Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated July 2, 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. The Planning Board accepts the recommendations of the MCDPS – Well and Septic Section in its letter dated September 25, 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 MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. The Planning Board accepts the recommendations of the MCDPS – Fire Department Access and Water Supply Section in its letter dated December 20, 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.

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<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.

7. 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.

8. The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

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 layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of chapter 59.*

The existing lot can easily accommodate the veterinary hospital and parking lot within the development envelope established by the approved preliminary plan. Therefore, the lot is appropriately dimensioned to accommodate the veterinary clinic and all necessary infrastructure. No changes to roads are included in this plan.

The intent of the Agricultural Reserve (AR) zone is to promote agriculture, mainly by providing large areas of contiguous properties suitable for agricultural and related uses. Although agriculture is the preferred use in the zone, "uses that are not exclusively agricultural in nature must satisfy additional use standards or the conditional use approval process." Conditional Use case CU 18-07, approved on October 17, 2018, found that the use conforms to the conditional use standards for a veterinary office/hospital and the intent of the zone.

The Application is well within the development standards of the AR zone except for the minimum site area, which is 25 acres in the zone. However, the lot was created in 2008 under the previous zoning code, which allowed the lot to be exempt (grandfathered) from the area and dimensional requirements of the former Rural Density Transfer (RDT) zone as long as the deed was recorded prior to its reclassification into the RDT zone and it met the requirements of the prior zone. The Subject Property was created by deed in the Rural zone (5-acre minimum lot size) prior to being rezoned RDT and the Property was found to meet the requirements of the Rural zone when the original preliminary plan was approved. The Application meets all the development standards of the AR Zone.

2. *The preliminary plan substantially conforms to the master plan.*

The Master Plan recommends onsite stormwater management for areas not controlled by centralized facilities to help protect the water quality of streams in the Little Bennett Creek drainage basin. The Master Plan also prohibits development or land disturbances on slopes in excess of 25 percent and cautions against allowing structures, paved surfaces, or septic fields on slopes in the range of 15-25 percent.

The Subject Property is not in an area controlled by a programmed centralized facility. The facility will comply with an approved stormwater management plan, which provides onsite stormwater management facilities that will, once approved, ensure the drainage area is adequately protected. The Subject Property does not contain any slopes greater than 15 percent.

The Master Plan stresses the importance of preserving agriculture in this part of the County and discourages non-farm uses, especially intensive residential development. However, the Master Plan does not prohibit non-farm uses. The Subject Property has already been approved for a single-family house, which is a non-farm use that was in keeping with the low-density residential character of the zone. In addition, the Master Plan encourages the existing development pattern of homes along ridge lines; the house-like design of the facility and its location along a ridgeline will help continue this pattern. Furthermore, the Master Plan shows the Subject Property in an existing residential area and not in the "working farms" area. Although a veterinary hospital is neither agricultural nor residential, the Application maintains the development pattern of the area, and the facility will fit within the same development envelope established for the one family residence.

The Amendment substantially conforms with the recommendations of the Master Plan.

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

a. **Roads and Other Transportation Facilities**

The Application will generate 22 new person trips during the AM peak travel period and 25 new person trips during the PM peak travel period. The Application is exempt from the Local Area Transportation Review (LATR) test under the 2016 Subdivision Staging Policy as the site will generate fewer than 50 new peak-hour person trips.

Right-of-way dedication was provided with the previous preliminary plan (No. 120070710) and platting of the Subject Property; no further dedication is required.

There are no current or planned pedestrian or bicycle facilities on Prescott Road and Lewisdale Road. Chapter 49, Streets and Roads, requires an applicant to install sidewalks if a lot fronts on a public road. Several exceptions are made to this, including building a sidewalk on any roadway classified as exceptional rustic, rustic, country arterial, or country road or on a tertiary residential street if the Planning Board finds that it is unnecessary for pedestrian movement.

Although Prescott and Lewisdale Roads are not classified, Lewisdale Road functions much like a country arterial and Prescott Road functions similar to a country road or a tertiary residential street. Sidewalks are not needed on the Subject Property for the following reasons:

- The Planning Board could find no sidewalks along any road abutting AR-zoned property in the entire County with the exception of a 260-foot section connecting two residential areas along Lewis Drive in Damascus and a 250-foot section on a bridge over Little Bennett Creek;
- The Subject Property has approximately 850 feet of frontage on the two roads; installing that length of sidewalk would be cost-prohibitive and disruptive to the terrain, including the forest within the existing Category I Conservation Easement; and
- Because sidewalks are not required on lots greater than 25,000 square feet for a single-family detached dwelling in a rural zone, it is highly unlikely any other property in the vicinity would ever be required to build a sidewalk. Requiring them here would lead to a “sidewalk to nowhere.” Since there is no planned pedestrian connectivity anywhere near the site, sidewalks here are unnecessary for pedestrian movement.

b. Other Public Facilities and Services

The Subject Property will be served by well and septic, so does not require public sewer service. Allegheny Power and Verizon provide service to the lot. The veterinary office will not generate any school students, so no schools test was performed.

The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on December 20, 2018. The Applicant was required to locate a 30,000-gallon water supply within a one-mile travel distance to the Subject Property to satisfy Montgomery County Fire and Rescue requirements. Since no such suitable supply is currently available, the Application includes a 30,000-gallon cistern beneath the parking lot.

The Hyattstown Volunteer Fire Department is located approximately 2.6 miles from the property. The Subject Property is served by Montgomery County Police District 5D, which is in Germantown. There are health clinics nearby in Clarksburg and a hospital in Germantown. The Subject Property is adequately served by police stations, firehouses, and health clinics.

The public facilities are adequate to support the veterinary hospital.

4. *All Forest Conservation Law, Chapter 22A requirements are satisfied.*

a. Natural Resource Inventory/Forest Stand Delineation

NRI/FSD No. 420022210 for the Subject Property was approved on February 13, 2002 and recertified on February 27, 2007. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The Subject Property contains 5.13 acres of a mixed hardwood forest with no streams, wetlands, or other environmentally sensitive features.

b. Preliminary Forest Conservation Plan

The Planning Board approved a PFCP on December 13, 2007 as part of the original preliminary plan application No. 120070710. The PFCP called out the Subject Property to be 5.65 acres in size in the RDT zone and showed the construction of a single-family structure within the limits of disturbance (LOD). The plan showed the site to have an existing forest cover of 5.60 acres. The PFCP showed the removal of 2.00 acres and the retention of 3.60 acres of existing forest. This resulted in a total planting requirement of 0.00 acres. The 3.60 acres of remaining forest were placed into a Category I Conservation Easement.

c. Final Forest Conservation Plan

The FFCP was submitted on June 27, 2018 and was administratively approved by Staff on August 29, 2018. The FFCP shows the location and grading necessary for the veterinary clinic but removes no additional net forest from that which the Planning Board already approved under the PFCP.

The FFCP shows the veterinary hospital within the LOD. The Applicant has also requested approval to remove and replace a small portion of existing forest within three small areas of the Category I Conservation Easement to create a usable building pad area for the veterinary hospital. The Applicant will reforest those disturbed areas and mitigate for the disturbance by planting 0.24 acres in an area to be added to the Category I Conservation Easement, which must be recorded by deed in the Land Records of Montgomery County prior to the start of any clearing, grading, or demolition on the Subject Property. The existing conservation easement will remain unchanged, except for this addition.

A minor change to the LOD that occurred after the FFCP was approved due to a widened driveway apron has been included with the Application and will be approved by Staff along with the Amendment.

The Final Forest Conservation Plan meets all applicable requirements of Chapter 22A of the Montgomery County Forest Conservation Law. The FFCP does not alter any of the requirements under the approved PFCP.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied.*

MCDPS found the stormwater management concept acceptable on July 2, 2018. The concept meets required stormwater management goals via micro-bioretenment. The Amendment meets the stormwater management requirements of Chapter 19.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.*

The Preliminary Plan does not include a known burial site.

7. *Any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied.*

The record plat for the Subject Property (plat No. 23886 "Widow's Purchase") contains the following note: "This lot is approved for a 4-bedroom house." Another note on the plat indicates that the plat is limited to the uses and conditions as required by preliminary plan no. 120070710 and that any proposed changes will require further Planning Board approval. This note sufficiently allows a change in use without the need to revise the plat. The lot is still approved for a 4-bedroom house. There are no known additional approvals needed for approval of the subdivision to be satisfied.

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 14 2019 (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 Commissioner Fani-González, with Chair Anderson and Commissioners Fani-González and Cichy voting in favor, and Vice Chair Dreyfuss and Commissioner Patterson absent at its regular meeting held on Thursday, March 7, 2019, in Silver Spring, Maryland.

  
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Casey Anderson, Chair  
Montgomery County Planning Board