



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

MCPB No. 20-089
Preliminary Plan No. 120200150
Radwick Lane Property
Date of Hearing: September 10, 2020

SEP 23 2020

RESOLUTION

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

WHEREAS, on January 7, 2020, Marcello Nucci ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create ten (10) lots for ten (10) single-family detached units, on 5.81 acres of land in the R-200 Zone, located on Radwick Lane, 1,500 feet south of the intersection of Radwick Lane and Norbeck Road ("Subject Property"), in the Aspen Hill Policy Area and 1994 *Aspen Hill Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120200150, Radwick Lane 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 31, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 10, 2020, 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. 120200150 to create ten (10) lots for ten (10) single-family

detached units on the Subject Property, subject to the following conditions:¹

General Approval

1. This Preliminary Plan is limited to ten (10) lots for ten (10) single-family detached dwelling units and associated stormwater management and open space parcels.

Adequate Public Facilities and Outside Agencies

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

Outside Agencies

3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated July 17, 2020 and 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT's requirements for access and improvements.
5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated July 13, 2020 and 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated June 17, 2020 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may

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.

amend if the amendment does not conflict with other conditions of Preliminary Plan approval.

Concurrent Site Plan Approval

7. Before submitting a record plat application or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of Site Plan No. 820200120. The number and location of site elements including but not limited to buildings, dwelling units, on-site parking, site circulation, and sidewalks is determined through site plan review and approval.
8. If an approved site plan amendment for the Subject Property substantially modifies the lot or right-of-way configuration or quantities shown on this Preliminary Plan, the Applicant must obtain approval of a Preliminary Plan amendment before certification of the site plan amendment.

Environment and Noise

Forest Conservation

9. The Applicant must comply with the following conditions of approval of Preliminary Forest Conservation Plan 120200150, approved as part of this Preliminary Plan.
 - a) Before demolition, clearing, or grading on the Subject Property, the Applicant must record a Category I Conservation Easement among the Montgomery County Land Records by deed. The deed must be in a form approved by the M-NCPPC Office of the General Counsel, and the Liber and Folio for the easement must be referenced on the record plat.

Transportation

10. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of the MCDPS to construct a 5-foot wide sidewalk along the property frontage on Radwick Lane.

New Streets

11. The Applicant must dedicate the rights-of-way and ensure construction of all necessary road improvements for Radwick Lane and Street A, per Road Code Standard MC-2001.02, as modified and as shown on the Preliminary Plan.

12. Proposed Street A must be a closed-section road, per the MCDOT and MCDPS Right-of-Way Permitting approvals and as shown on the Certified Preliminary Plan, with final details to be determined at Certified Site Plan.

Record Plats

13. There shall be no clearing or grading of the site prior to recordation of plat(s).

Easements

14. The record plat must show necessary easements.

Notes and Labels

15. The record plat must reflect all areas under common ownership.
16. The record plat must include the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the property is developed."
17. The record plat must reference the Common Open Space Covenant recorded among the Montgomery County Land Records at Liber 28045 Folio 578 ("Covenant").

Certified Preliminary Plan

18. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).
19. 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) or site plan approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.
20. Prior to submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a. Show resolutions and approval letters on the certified set.

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 lots have been reviewed for compliance with Section 50-29(a) of the Subdivision Regulations. Given the residential character of the surrounding neighborhood, the layout of the subdivision, including size, width, shape, and orientation, the proposed lots are appropriate for their location within the subdivision and meet all applicable requirements of the R-200 Zone, utilizing the Optional Method Cluster Development standards from Section 59.4.4.7.C.

The Preliminary Plan provides for required public sites and adequate open areas.

A central open space is at the center of the newly constructed public road loop. This central open space will provide a valuable amenity to be enjoyed by the residents of the new subdivision, and 40% of the property will be provided as common open space, which is about double the minimum required.

The Lot(s) and Use comply with the basic requirements of Chapter 59.

The lots and parcels were reviewed for compliance with the dimensional requirements for the R-200 Zone under cluster development as specified in the Zoning Ordinance. The lots and parcels as proposed will meet all the dimensional requirements for area, frontage, and width in that zone. The Applicant will need to adjust the location of its houses as conditioned, to meet the 25-foot minimum setback requirement as specified in Chapter 59.4.4.7.C.

Division 4.4.7.C. R-200 Zone, Optional Method Cluster Development Standards

	Required	Provided
Minimum usable area	5 acres	5.81 acres
Maximum density permitted	2 DUs/acre	1.72 DUs/acre
Common Open space required (%)	20%	40%
Common Open space required (acres)	1.16 acres	2.32 acres
Minimum lot area	9,000 sf	9,000 sf
Minimum setback from public street	25 feet	25 feet*

Minimum setback from private street	10 feet	N/A
Minimum rear setback	40 feet	40 feet
Maximum height	40 feet	40 feet
Maximum lot coverage	25%	25%

2. The Preliminary Plan substantially conforms to the Master Plan.

The Property is located within the limits of the 1994 *Aspen Hill Master Plan* and is in an area which is zoned R-200. The Master Plan does not make specific recommendations for the Subject Property, other than to confirm the existing land use and zoning of the area. The plan also states that the Vision for the residential areas is to "Encourage and maintain a wide choice of housing types and neighborhoods for people of all incomes, ages, lifestyles and physical capabilities at appropriate densities and locations." The Master Plan also lists "Protection of the existing residential communities is a main objective of the Plan, which is in accordance with the General Plan objective to maintain and enhance the quality of housing and neighborhoods." As a subdivision of detached single-family houses consistent with the surrounding character of the neighborhood, the proposed subdivision is in conformance with the Master Plan.

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

The Property is already served by existing public facilities including roads, water, sewer, utilities, schools and emergency services. As outlined below, the addition of 10 new homes in this area makes sense from a public facility standpoint since all the necessary services are existing and available.

Water and Sewer

The Subject Property is in water category W-1 and sewer category S-3. There are existing water and sewer lines in the adjacent Radwick Lane right-of-way. The existing water and sewer lines will be extended within the right-of-way to serve the ten proposed houses.

Transportation

The ten lots will each have their own driveway access from proposed Street A. Proposed Street A's intersection with Radwick Lane meets the County requirements for sight distance.

The proposed lot and street layout provide a safe pedestrian and vehicular circulation with the Road Code Standard MC-2001.02, as modified. Proposed Street A is a public street utilizing the Tertiary Street standards with sidewalks on both sides. In addition, the plan is proposing a sidewalk along the Radwick

Lane frontage. The area inside the elongated cul-de-sac serves as a proposed open space area, with safe crossings provided for pedestrians.

Street A is proposed as a closed-section, curb-and-gutter road. The road is located in a Class IV watershed, which typically prohibits closed-section roadways per Chapter 49 of the county code. However, Chapter 49 includes the following provision that allows for the proposed closed-section roadway:

“The Director of Permitting Services may allow a person to install curbs and gutters in a portion of a road located in an area listed in paragraph (1), after giving the Planning Board a reasonable opportunity to comment, if:

- (A) installing curbs and gutters will not significantly degrade water quality in the area;
- (B) curbs and gutters are necessary for vehicular or pedestrian safety or the proper grading or maintenance of the road, or to reduce the environmental impact of the road on any park, forest, or wetland;”

Regarding the proposed Street A section, both findings A and B are satisfied, as the curb and gutters will not significantly degrade the water quality in the area and the curb and gutters are necessary to limit forest clearing and retention on the Property. Thus, 1.9 acres of existing forest are able to be placed in a Category I Conservation Easement.

On-Site Vehicular Circulation

The Applicant proposes a one-way, circular cul-de-sac extending from Radwick Lane, serving 10 single-family residential homes. The Applicant worked with the Planning Department and the Montgomery County Department of Transportation to refine the proposed concept, which allows for the creation of a central green space, maintains individual driveways for the single-family homes, and provides safe and adequate access for emergency vehicles.

Master-Planned Roadways and Bikeway

Radwick Lane is not classified by the *Master Plan of Highways and Transitways*. Connecting from Norbeck Road, Radwick Lane functions as a two-lane residential street with 20 feet currently paved, and no sidewalks.

The *Bicycle Master Plan* recommends a sidepath on the north side of Norbeck Road, but no bicycle recommendations are made for Radwick Lane. The Intercounty Connector Trail is proposed along Wintergate Drive, south of the site.

Roadway Improvements

The Applicant will pave a new circular cul-de-sac to support safe, efficient, and adequate access for the planned residential lots.

Public Transit Service

Ride On Route 51 operates along Wintergate Drive, south of the site. Route 51 operates service between the Norbeck Park & Ride and the Glenmont Metro Station every 30 minutes on weekdays, during the morning and evening peak periods. The nearest bus stop to the site is located at Wintergate Drive and Alpine Valley Court.

Pedestrian and Bicycle Facilities

Currently, Radwick Lane is an open section with no sidewalks. Along the circular cul-de-sac, the Applicant will construct a five-foot sidewalk and a five- to seven-foot landscape panel. The Applicant will also construct two crosswalks, including ADA accessible curb ramps, that connect to the central green. No bicycle facilities are recommended for Radwick Lane in the *Bicycle Master Plan*.

The Planning Department supported off-site pedestrian connections to Wintergate Drive or Norbeck Road, but both options were deemed nonviable.

Local Area Transportation Review (LATR)

The Institute of Transportation Engineers' Trip Generation rates is used to calculate the peak-hour trips generated by the proposed 10 single-family homes. Based on this projection, nine trips are expected to be generated in the peak morning hour and 10 trips are expected to be generated in the evening peak hour. The site will generate fewer than 50 total person trips, and per the 2017 Local Area Transportation Review Guidelines no traffic study is required.

Schools

Overview and Applicable School Test

Preliminary Plan No. 120200150 & Site Plan No. 820200120 – The Radwick project is located on the north side of Radwick Lane approximately 1,300 feet from the intersection of 28. The Applicant will remove the existing single-family detached house and construct ten (10) new single-family detached houses. This project will be going before the Planning Board on September 10, 2020. Therefore, the FY21 Annual School Test, approved by the Planning Board on June 25, 2020 and effective July 1, 2020 is applicable.

Calculation of Student Generation

To calculate the number of students generated by the proposed development, the number of dwelling units is multiplied by the applicable regional student generation rate for each school level. Dwelling units are categorized by structure

type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit. The subject property is located in the southwest region of the County.

Per Unit Student Generation Rates – Southwest Region

	Elementary School	Middle School	High School
SF Detached	0.186	0.109	0.151
SF Attached	0.167	0.085	0.111
MF Low-Rise	0.150	0.068	0.085
MF High-Rise	0.041	0.018	0.025

With a net of 9 single-family detached units, the proposed project is estimated to generate the following number of students:

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
Single Family Detached	-1	0.186	-0.186	0.109	-0.109	0.151	-0.151
Single Family Detached	10	0.186	1.860	0.109	1.090	0.151	1.510
TOTALS	9		1		0		1

On average, this project is estimated to generate 1 new elementary school student, no new middle school students, and 1 new high school student.

Cluster Adequacy Test

The project is located in the Rockville High School Cluster. The student enrollment and capacity projections from the FY21 Annual School Test for the cluster are noted in the following table:

School Level	Projected Cluster Totals, September 2025			Moratorium Threshold	Estimated Application Impact
	Enrollment	Program Capacity	% Utilization		
Elementary	2,641	2,597	101.7%	476	1
Middle	1,001	944	106.0%	131	0
High	1,496	1,535	97.5%	345	1

The Moratorium Threshold identified in the table is the number of additional projected students that would cause the projected utilization to exceed the 120%

utilization threshold and therefore trigger a cluster-wide residential development moratorium. As indicated in the last column, the estimated enrollment impacts of this application fall below the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

Individual School Adequacy Test

The applicable elementary and middle schools for this project are Flower Valley ES and Earle B. Wood MS, respectively. Based on the FY21 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

School	Projected School Totals, September 2025				Moratorium Threshold	Estimated Application Impact
	Enrollment	Program Capacity	% Utilization	Surplus /Deficit		
Flower Valley ES	474	416	113.9%	-58	52	1
Earle B. Wood MS	1,001	944	106.0%	-57	132	0

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and the school seat deficit meets or exceeds 110 seats for an elementary school or 180 seats for a middle school. If a school's projected enrollment exceeds *both* thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds identified in the table above are the numbers of additional projected students that would cause the projected utilization to exceed the 120% utilization threshold and the seat deficit threshold. As indicated in the last column, the estimated enrollment impacts of this application fall below the moratorium thresholds for both Flower Valley ES and Earle B. Wood MS. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by this project.

Analysis Conclusion

Based on the school cluster and individual school capacity analysis performed, using the FY2021 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this application.

Other Public Facilities and Services

Other Public Facilities and Services Public facilities and services are available and will be adequate to serve the proposed development. The Property is proposed to be served by public water and public sewer. This application has been reviewed by the Montgomery County Fire and Rescue Service, which has determined that the Property will have appropriate access for fire and rescue

vehicles. Other public facilities and services, such as police stations, firehouses and health services are operating within the standards set by the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Property. Electrical, telecommunications, and gas services are also available to serve the Property.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

Technical Review 50.4.3.K

A. Forest Conservation

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

The Property has 4.53 acres of existing forest according to what is shown on the approved Natural Resources Inventory/Forest Stand Delineation Plan 420191420. All forest conservation requirements will be met on site. The Property falls under the High-Density Residential Land Use Category and requires a 20% conservation threshold. The Forest Conservation Plans show that 1.93 acres of existing forest will be retained, thereby meeting forest conservation requirements on-site, as is required when utilizing the cluster option. There are a number of large trees that are proposed to be removed. Saving all of the on-site large specimen trees is unavoidable. The applicant has applied for a variance to allow for the removal of these trees with the Final Forest Conservation Plan.

There are two stream buffers that are located on the site. The buffers are from streams that are located off-site. Except for a small area for the stormwater management facilities outfalls, this plan proposes to leave the on-site stream buffers as forested.

Environmental Guidelines

Staff approved a Natural Resources Inventory/Forest Stand Delineation (NRI/FSD No. 420191420) on June 10, 2019. The Property lies in the Northwest Branch watershed and contains 4.53 acres of high priority forest. There are two areas of forested stream valley buffer in the northeast and southeast corners of the Property. The two areas total 0.66 acres and protect off-site streams. The stream valley buffer will remain forested and protected by Category I Conservation Easements.

Forest Conservation

The Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and a Final Forest Conservation Plan was submitted for approval. There is 4.53 acres of existing forest and the Plan proposes to clear 2.60 acres of forest and to retain 1.93 acres of forest. The retained forest will be on homeowner's association property and will be covered by a Category I Conservation Easement.

Minimum Retention

As per Sec. 22A-12(f)(2)(B) of the Forest Conservation Law,

"In a planned development or a site developed using a cluster or other optional method in a one-family residential zone, on-site forest retention must be equal to the applicable conservation threshold in subsection (a).

The Property is subject to the minimum retention provision because R-200 is a single-family zone and the Applicant is proposing to use the cluster development optional method of development. The conservation threshold for this property is 20%, or 1.25 acres. The Applicant is retaining 1.93 acres, which meets the minimum retention requirement for this Property.

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 project requires the removal or CRZ impact to 33 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 this variance will not confer a special privilege on the Applicant as disturbance of the specific trees is a result of the need to avoid disturbance within the stream valley buffers and the need to maximize forest retention. The development is clustered to minimize

disturbance, while meeting all relevant zoning requirements. Granting the variance will not confer a special privilege on the Applicant.

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 that are the result of actions by the Applicant. The variance is necessary due to the constraints of the two locations of stream valley buffer and the need to retain existing forest.

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 location of trees and the proposed development and not 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 Applicant will plant 48" caliper inches of native shade trees to replace the form and function of the variance trees proposed for removal. In addition, the Property will be developed in accordance with the Maryland Department of the Environment criteria for stormwater management and the stream valley buffer planted.

Mitigation for Trees Subject to the Variance Provisions

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approves replacement of Protected Trees at a ratio of approximately 1" caliper per 4" DBH removed, using a minimum 3-inch caliper native shade tree. The Applicant will provide 16 native shade trees, at a minimum 3-inch caliper size. No mitigation is required for Protected Trees impacted but retained.

County Arborist's Recommendation of the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The variance request was sent to the arborist on September 3, 2019, and a response has not been provided.

Therefore, the Planning Board approves the variance request.

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

This finding is based upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards.

The Applicant received approval of their stormwater management concept from the Montgomery County Department of Permitting Services, Water Resources Section on July 13, 2020. The concept meets required stormwater management goals using a combination of ESD approaches including drywells and micro-bioretenention areas. The Property is not subject to a water quality plan, and there are no floodplain requirements. The requirements of Chapter 19 for stormwater management are satisfied.

BE IT FURTHER RESOLVED that this Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G, 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 SEP 23 2020 (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 Cichy, seconded by Commissioner Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, September 10, 2020, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board