



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

JAN 07 2021

MCPB No. 20-130
Preliminary Plan No. 120190110
Greenskeeper Landscaping
Date of Hearing: December 17, 2020

RESOLUTION

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

WHEREAS, on February 11, 2020, David Mamana ("Applicant") filed an application for approval of a preliminary plan of subdivision of property that would create one (1) lot on 31.57 acres of land in the AR zone and Patuxent River Watershed Primary Management Area; located at 3309 Damascus Road ("Subject Property"), in the Rural East Policy Area and 2005 *Olney Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120190110, Greenskeeper Landscaping ("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 December 4, 2020, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 17, 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. 120190110 to create one (1) lot on the Subject Property, subject to

the following conditions:¹

1. This Application is limited to one (1) lot for a Landscape Contractor.
2. The Applicant must comply with conditions from the Hearing Examiner's Report and Decision, dated January 11, 2016, from the Office of Zoning and Administrative Hearings (OZAH) approving Conditional Use No. 15-04.
3. The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan No. 120190110, which is an amendment to Final Forest Conservation Plan No. CU2015-04, subject to the following conditions:
 - a. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - b. 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 Inspection Staff.
4. Prior to the start of any clearing, grading, or demolition on the Subject Property, the Applicant must enter into an agreement with the Planning Board to limit impervious surfaces to no more than 10.9% of the net tract area and 7.5% of the area within the Primary Management Area (PMA) of the Subject Property, and as shown on the Impervious Surface Plan dated September 2, 2020 and approved as part of Preliminary Plan No. 120190110. The agreement must be in a form approved by the M-NCPPC Office of the General Counsel and recorded by deed in the Montgomery County Office of Land Records.
5. There shall be no clearing or grading of the site prior to recordation of plat(s).
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated July 20, 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.

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.

7. 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 January 26, 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.
8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Well and Septic Section in its letter dated November 19, 2020, 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 if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
9. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated July 23, 2020 and its reconfirmation letter on September 26, 2019, 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.
10. The Applicant must dedicate 40 feet of right-of-way from the existing pavement centerline along Damascus Road/MD 650 and show it on the record plat(s).
11. The Applicant must construct frontage improvements, consistent with the 2018 *Bicycle Master Plan*, to provide a 4-foot-wide bikeable shoulder across the Property frontage along Damascus Road/MD 650.
12. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MDSHA to ensure construction of a 4-foot wide bikeable shoulder along the Property frontage on Damascus Road/MD 650.
13. The record plat must show necessary easements.
14. 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.

15. The Certified Preliminary Plan must contain the following note:

"Unless specifically noted on this plan set 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 approval of a building permit. 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."

16. Certified Preliminary Plan

Prior to approval of the Certified Preliminary Plan, the following revisions must be made and/or information provided subject to M-NCPPC Staff review and approval:

- a. Label the 4' wide bikeable shoulder as "bikeable shoulder" instead of "bike path".
- b. Adjust the provided parking in the data table to conform with Conditional Use 15-04.
- c. Correct the data table to reflect required setbacks based on Section 59.3.5.5.B.2 rather than the standard method setbacks in Section 59.4.2.1.F.

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 Preliminary Plan meets all applicable sections of the Subdivision Regulations. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, and for the building types (Landscape Contactor) use contemplated for the Property.

The lot was reviewed for compliance with the dimensional requirements for the AR zone as specified in the Zoning Ordinance. The lot will meet all the

dimensional requirements for area and frontage and can accommodate the Landscape Contractor which can reasonably meet the width and setbacks requirements in that zone.

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

The Property is located within the 2005 *Olney Master Plan* area. It is west of the Sunshine area, within the area known as Unity Village. This area falls within the part of the Olney Master Plan designated as "Northern Olney" and "Rural Communities." The Master Plan identifies the Villages of Sunshine and Unity along with the Mount Zion Community as an integral part of the Rural Heritage of Northern Olney. On pages 18-19 of the Master Plan, the Land Use Recommendation calls for discouraging residential development by maintaining rural zoning designations and protection of forested areas and wetlands. The land use recommendation for rural communities (p 20) is to: "Maintain the character and existing scale of development in the rural communities in Northern Olney. Prohibit additional zoning for commercial uses or expansion of commercially zoned areas in these communities." The Application creates one lot for an existing Landscape Contractor as defined by the Zoning Ordinance and does not alter the existing character or scale of the Northern Olney rural community.

The Subject Property is in the Upper Patuxent River watershed and subject to the Patuxent Primary Management Area (PMA) guidelines to protect water quality. The PMA guidelines seek to restrict uses with high impervious levels in close proximity to all tributaries of the Patuxent. As further discussed below, the Property meets the PMA requirements for limiting impervious surfaces.

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

Master-Planned Roadway and Bikeways

The 2018 *Master Plan of Highways and Transitways* identifies Damascus Road (MD 650) as a country arterial with two travel lanes (one lane in each direction) with a right-of-way of 80 feet. The Application will provide an additional 40 ft. of ROW dedication along the frontage as measured from the centerline in support of this recommendation. The 2018 *Bicycle Master Plan* recommends bikeable shoulders along Damascus Road; 4-ft wide shoulders will be provided along the frontage.

Local Area Transportation Review

As conditioned by Conditional Use 15-04, the 53 employee Landscape Contractor use on the Subject Property does not require review under the LATR as

confirmed with driveway counts, dated September 22, 2015, in the AM and PM peak periods as part of the 2015 Conditional Use approval. The Subject Property will generate 24 AM and 9 PM peak period person trips as per the Transportation Statement, which is below the 50-person threshold for additional LATR review.

Circulation and Connectivity

The driveway access for the Subject Property is located approximately 750 feet to the east of the intersection of Sundown Road and Damascus Road. It is the only vehicular access for the Property, which backs up against an easement for power lines owned and operated by Pepco. A previous connection to a private driveway in the rear of the Subject Property will be removed. Vehicle parking is to be provided on-site. There are no sidewalks on Damascus Road (MD 650/MD108) from Georgia Avenue (MD 97) to MD 124 in Damascus, a distance of nearly ten miles.

The Planning Board finds the Application consistent with the 2018 *Master Plan of Highways and Transitways*, the 2018 *Bicycle Master Plan* and the 2005 *Olney Master Plan*.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lot. The Subject Property is in the W-6 and S-6 water and sewer service categories, respectively, and utilize on-site water and sewer. The Montgomery County DPS – Well and Septic division issued an approval letter on November 19, 2020 accepting the Application with conditions.

The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on January 26, 2018. The Fire Department Access Plan provides a fire code compliant driveway to adequately access all existing and proposed structures. The driveway meets all the required turning radii, widths, and turnaround requirements for fire trucks serving the Subject Property. 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 in effect at the time that the Application was submitted.

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

A. Forest Conservation

The Subject Property is in compliance with all of the applicable requirements of the Forest Conservation Law.

Previous FCP Approvals

Final FCP CU201504 was approved as part of the Conditional Use No. 15-04 in a Planning Board Resolution dated November 17, 2015. There was no disturbance proposed as part of this FCP, therefore all of the existing forest was retained. Based on the land use category and the forest conservation worksheet, the FCP resulted in a 3.51-acre forest planting requirement that was satisfied on-site within the stream buffer and adjacent to existing forest. Overall, the approved FCP resulted in the retention of 2.81 acres of existing forest, planting of 3.51 acres of forest, and protection of these areas as well as the stream, stream buffer and pond in a Category I conservation easement.

A revision to Final FCP CU201504 was approved by M-NCPPC Staff in a letter dated June 10, 2016. The Final FCP was revised per the previous approval to update the size of the planting stock used to meet the on-site planting requirements. There was no disturbance proposed as part of this FCP.

All forest conservation requirements for this Property, including the forest planting and recordation of the conservation easement have been satisfied as part of these previous approvals.

Final FCP 120190110 (Amending FCP CU201504)

The Application includes an amendment to the Final FCP to include the limits of disturbance for the proposed stormwater management features to treat the existing development on the Property. The proposed disturbance will not impact any forest or trees subject to the variance provision of the Forest Conservation Law; therefore, no additional forest planting or tree planting is required. The Final FCP submitted with this Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law.

Patuxent River Primary Management Area

The Subject Property is in the Upper Patuxent River watershed and subject to the Patuxent Primary Management Area (PMA) guidelines to protect water quality. The PMA guidelines seek to restrict uses with high impervious levels in close proximity to all tributaries of the Patuxent. This Application must meet two requirements related to the impervious surface limits for the Patuxent River Primary Management Area (PMA) as follows:

1. The Hearing Examiner's approval of the Conditional Use included a condition that the Applicant provide an Impervious Surface Plan that

demonstrates that impervious surfaces do not exceed 10.9% of the net tract area and 7.5% of the area within the Primary Management Area (PMA).

2. The M-NCPPC *Environmental Guidelines* limits impervious surfaces within the PMA to no more than 10%.

An Impervious Surface Plan was submitted as part of this Application. Table 1 includes the impervious surface calculations that demonstrate conformance with the applicable conditions of the Conditional Use approval as well as the requirement of the Patuxent River PMA as outlined in the *Environmental Guidelines*.

The Application is in conformance with the standards of the Patuxent River Primary Management Area as well as the stricter standard set forth in Conditional Use No. 15-04.

Table 1 - Impervious Surface Calculations

TOTAL SITE AREA: 1,375,510 Square Feet
TOTAL EXISTING IMPERVIOUS AREA ON-SITE: 148,384 Square Feet
NEW IMPERVIOUS AREA: 3,000 Square Feet
EXISTING IMPERVIOUS AREA TO BE REMOVED: 8,190 Square Feet
TOTAL IMPERVIOUS AREA: 143,194 Square Feet
TOTAL SITE IMPERVIOUSNESS: 10.41%
TOTAL AREA OF PMA TRANSITION ZONE ON-SITE: 912,438 Square Feet
TOTAL EXISTING IMPERVIOUS AREA WITHIN
PMA TRANSITION ZONE: 64,649 Square Feet
EXISTING IMPERVIOUS AREA TO BE REMOVED
WITHIN PMA TRANSITION ZONE: 8,190 Square Feet
NEW IMPERVIOUS AREA WITHIN PMA
TRANSITION ZONE: 3,000 Square Feet
TOTAL SITE IMPERVIOUS AREA IN PMA ZONE: 59,459 Square Feet
PERCENT OF AREA THAT IS IMPERVIOUS: 6.52%

NOTES:

- 1) IMPERVIOUS AREAS FOR POLE BARNs INCLUDE ROOF OVERHANGS.

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

The Preliminary Plan received an approved stormwater plan approval from the Montgomery County Department of Permitting Services, Water Resources Section on July 23, 2020. The Application will meet stormwater management goals through the use of dry wells, rain gardens, infiltration.

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

There is no evidence, actual notice, or constructive notice of a burial site on the Subject Property. The Subject Property is not included in the Montgomery County Inventory.

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

The Application is in conformance with the conditions of Conditional Use 15-04.

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 JAN 07 2021 (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 Verma, with Chair Anderson, Vice Chair Fani-González, and Commissioners Cichy, Patterson, and Verma voting in favor at its regular meeting held on Thursday, December 17, 2020, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board