



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

MCPB No. 21-116
Administrative Subdivision No. 620210020
Wilson Delay Lot 1
Date of Hearing: October 28, 2021

NOV 15 2021

RESOLUTION

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

WHEREAS, on September 24, 2020, VanMar Associates, Inc. ("Applicant") filed an application for approval of an administrative subdivision plan of property that would create one lot on 12.45 acres of land in the AR zone, located on West Hunter Road, 4,000 feet west of Darnestown Road ("Subject Property"), in the Rural West Policy Area and 1980 *Agricultural and Rural Open Space Master Plan* ("Master Plan") area; and

WHEREAS, Applicant's administrative subdivision plan application was designated Administrative Subdivision Plan No. 620210020, Wilson Delay Lot 1 ("Administrative Subdivision 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 October 8, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on October 28, 2021, 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 Administrative Subdivision Plan No. 620210020 to create one (1) lot on the Subject

2425 Reedie Drive, 14th Floor, Wheaton, Maryland 20902 Phone: 301.495.4605 Fax: 301.495.1320
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc.org

Approved as to
Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

Property, subject to the following conditions:¹

General Approval

1. This Administrative Subdivision Plan is limited to one (1) lot for one (1) new single-family detached dwelling unit.

Adequate Public Facilities

2. The Adequate Public Facilities (“APF”) review for the Administrative Subdivision Plan will remain valid for five (5) years from the date of mailing of this Planning Board Resolution.

Plan Validity Period

3. The Administrative Subdivision Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date of this validity period, a final record plat for all property delineated on the approved Administrative Subdivision Plan must be recorded in the Montgomery County Land Records or a request for an extension filed.

Outside Agencies

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated August 30, 2021 and incorporates them as conditions of the Administrative Subdivision 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 Administrative Subdivision Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. 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 June 21, 2021 and incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicant must comply with each of the recommendations as set

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.

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 Administrative Subdivision Plan approval.

7. The Planning Board has reviewed and accepts the recommendations of MCDPS – Well and Septic Section in its letter dated September 13, 2021 and incorporates them as conditions of the Administrative Subdivision 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 Administrative Subdivision Plan approval.
8. The Planning Board has reviewed and accepts the recommendations of the Rustic Roads Advisory Committee (“RRAC”) in its letter dated December 13, 2020 and incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by RRAC if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.

Other Approvals

9. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Administrative Subdivision Plan.

Forest Conservation and Environment

10. The Applicant must comply with the conditions of approval for the Preliminary/Final Forest Conservation Plan (“FFCP”) No. 620210020, approved as part of this Administrative Subdivision Plan, including:
 - 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 Preliminary/Final Forest Conservation Plan (“FFCP”). Tree save measures not specified on the FFCP may be required by the M-NCPPC Forest Conservation Inspection Staff.
 - c) Prior to recordation of the plat and the start of any demolition, clearing, grading, or construction for this development Application, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved FFCP. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be

recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.

- d) Prior to the start of any demolition, clearing, grading or construction for this development Application, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
- e) The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FFCP.

Transportation

Existing Frontage Improvements

- 11. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
 - a) All land necessary to accommodate thirty-five (35) feet from the existing pavement centerline along the Subject Property frontage for West Hunter Road.

Record Plats

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

Easements

- 13. The record plat must show all necessary easements.

Certified Administrative Subdivision Plan

- 14. The Applicant must include the stormwater management concept approval letter and Administrative Subdivision Plan Resolution on the approval or cover sheet(s).
- 15. The Certified Administrative Subdivision 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 Administrative Subdivision 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.

16. Prior to submittal of the Certified Administrative Subdivision Plan, the Applicant must make the following changes:

- a) Modify the data table to reflect the setbacks, lot coverage, and building height for the AR zone.

BE IT FURTHER RESOLVED that having considered the recommendations 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:

Applicability, Section 50.6.1.B. *Subdivision for creation of certain residential lots located in the Agricultural Reserve zone. Up to 5 lots for detached houses are permitted under these procedures in the AR zone if:*

1. *Written approval for a proposed well and septic area is received from the Department of Permitting Services before approval of the plat.*

The Subject Property will utilize a new on-site private well and septic system. The Application has been reviewed by MCDPS - Well and Septic Section, which determined the well and septic locations are acceptable as shown on the approved well and septic plan.

2. *Any required road dedications and public utility easements along the frontage of the proposed lots are shown on the record plat, and the applicant provides any required improvements.*

As conditioned, the Applicant will dedicate thirty-five (35) feet from the existing pavement centerline along the Subject Property frontage on West Hunter Road to accommodate the master planned 70-foot right-of-way. As discussed further in the Master Plan Conformance section below, the 1996 *Rustic Roads Functional Master Plan* recommends providing limited improvements for access to-and-from the Property and supporting the intent to maintain West Hunter Road as a rustic road. The creation of the single lot will continue to protect the existing environmental features of the Subject Property and the existing character of West Hunter Road. Furthermore, the 2018 *Bicycle Master Plan* does not recommend any bicycle improvements to West Hunter Road and Section 49-33(e) of the Road Code exempts sidewalks along rustic roads.

3. *The requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat.*

As conditioned and discussed below, the requirements for adequate public facilities have been met.

- 4. A covenant is recorded for the unplatted balance of the tract noting that density and development rights have been used for the new lots and noted on the record plat for the lots.*

As conditioned, the Applicant will record a covenant for the unplatted balance of the tract noting that density and development rights have been used for the new lot and include a note on the record plat for the lot.

- 5. Lots created in the AR zone through this procedure are 5 acres or less, unless approved by the Board.*

The approved 12.45-acre lot is greater than 5 acres, which requires Planning Board approval.

Per Section 59.7.7.1.D.9. of the Zoning Ordinance, the Application is exempt from minimum lot area and lot width requirements of the AR zone, but the minimum requirements for the Rural zone apply. The approved subdivision meets these requirements and demonstrates how the lot can accommodate a future single-family detached dwelling unit.

- 6. Forest conservation and environmental protection requirements are satisfied before approval of the plat.*

The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines. Additionally, the Application satisfies the stormwater management requirements of Chapter 19.

Technical Review, Section 4.3

- 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 Administrative Subdivision Plan meets all applicable sections of the Subdivision Regulations. The approved lot size, width, shape, and orientation are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, the existing lot pattern of surrounding

properties, and the building type (Single-Unit Living) contemplated for the Property.

Exemption, Section 59.7.7.1.D.9.

The 12.45-acre parcel, approved as a 12.18-acre lot and 0.27-acre dedication, does not meet the minimum lot size requirement for the AR zone, which is 25 acres. However, the Subject Property qualifies for an exemption under Section 59.7.7.1.D.9. of the Zoning Ordinance, *Exempted Lots and Parcels in the Agricultural Zone*, which states that a parcel in the Agricultural Reserve, created before January 6, 1981, is exempt from the minimum lot area requirements and lot width requirements of the AR zone, but must satisfy the requirements of the applicable zone before its classification in the AR zone, which was Rural for this Property. As reflected in Table 1, the Subject Property conforms to the dimensional standards of the AR zone, except for lot area and lot width, which conforms to the standards of the former Rural zone.

A summary of this review is included below in the Administrative Subdivision Plan Data Table.

Table 1 - Development Review Table

AR Zone	Required by the Zone	Approved Lot
Minimum Lot Area ¹	5 acres	12.45 acres
Minimum Lot Frontage	25 feet	25 feet or greater
Minimum Lot Width at B.R.L. ¹	300 feet	300 feet or greater
Maximum Lot Coverage	10%	10% or less
Min. Setbacks (for all lots) ²		
Front	50 feet	50 feet or greater
Side	20 feet	20 feet or greater
Rear	35 feet	35 feet or greater
Max. Building Height	50 feet	50 feet or less
Site Plan Required	No	No

¹ Per Section 59.7.7.1.D.9. of the Zoning Ordinance, the Subject Property is subject to the minimum lot area and width requirements of the Rural zone.

² As determined by MCDPS.

2. *The Preliminary Plan substantially conforms to the Master Plan or Urban Renewal Plan*

The Administrative Subdivision Plan substantially conforms to the 1980 *Agricultural and Rural Open Space Master Plan*. The Master Plan designates the area, which includes the Subject Property, as being a part of the "Agricultural Reserve" community of the upper County (p. 38 of Master Plan). The Subject

Property is one of several properties clustered together and located along the north side of West Hunter Road. These properties, including those located south of West Hunter Road, are AR-zoned and utilized for some measure of agricultural purposes. The Subject Property contains existing prime soils, which will be retained and continue to be utilized for agriculture. The approved subdivision of the Subject Property into one single-family lot is consistent with the intent of the Master Plan by continuing to “serve to define and support those working farms” and will maintain the rural character of the area.

West Hunter Road was designated as a "rustic road" by the 1996 *Rustic Roads Functional Master Plan* and identified as having “outstanding farm vistas” (p. 166 of the 1996 *Rustic Roads Master Plan*). While there is not a direct mention of any specific scenic views or vegetation along this stretch of roadway, the Subject Property will maintain the existing character of the rustic road which supports the Master Plan recommendations for this area. Only one new driveway is provided for the new lot and there are not any improvements anticipated for West Hunter Road. The Application is consistent with the recommendations of the Master Plan and 1996 *Rustic Roads Functional Master Plan* by providing limited improvements for access to-and-from the Property and supporting the intent to maintain West Hunter Road as a rustic road. The creation of the single lot will continue to protect the existing environmental features of the Subject Property and the existing character of West Hunter Road.

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

Roads and Master Plan Transportation Facilities

West Hunter Road is classified as a rustic road with a 70-foot right-of-way per *The Master Plan of Highways and Transitways*. As conditioned, this Application will dedicate the necessary right-of-way across the frontage of the Property on West Hunter Road by providing 35 feet from the centerline of the existing pavement to the Property line (approximately 11,656 sq. ft). Vehicular access to the Subject Property will be via a 10 ft. wide driveway off West Hunter Road.

The 2018 *Bicycle Master Plan* does not recommend any bicycle improvements to West Hunter Road.

The Subject Property is located within the Rural West Policy Area and fronts on West Hunter Road, a rustic road per the 1996 *Rustic Roads Functional Master Plan* and is located within a Rural Road Code Area. There are no existing sidewalks for potential connectivity in proximity to the Property, and per Section 49-33(e) of the Montgomery County Code, the installation of sidewalks is not required on any roadway classified as exceptional rustic, rustic, country arterial, or country road. Thus, no frontage improvements are required at this time.

Local Area Transportation Review (LATR)

The estimated impact of the approved single-family detached residence is one (1) AM and one (1) PM peak-hour person trip for the Rural West Policy Area. As a result, this Application is exempt from additional Local Area Transportation Review (LATR) because the approved land use generates fewer than 50 peak-hour person trips. The Applicant included a Transportation Exemption Statement as part of this Application.

Transportation access is safe and adequate for the approved use. This Application is consistent with the *2018 Bicycle Master Plan*, the *2002 Potomac Subregion Master Plan*, and satisfies the Adequate Public Facilities (APF) test under the 2020-2024 Growth and Infrastructure Policy.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the approved lot. The Subject Property has W-6 and S-6 water and sewer service categories, respectively, and will utilize a private well and septic system. The Application has been reviewed by MCDPS - Well and Septic Section, which determined the approved well and septic locations are acceptable based on the letter dated September 13, 2021.

The Application has been reviewed by the Montgomery County Department of Permitting Services Fire Department Access and Water Supply Section. The Application is exempt from fire department vehicular access review and approval as the Subject Property has not had any alterations and was developable for a single-family residence prior to 2010.

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 Growth and Infrastructure Policy currently in effect.

School Adequacy Test

The Application is served by Monocacy ES, John Poole MS, and Poolesville HS. Based on the FY2022 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 2 - Applicable FY2022 School Adequacy

School	Projected School Totals, 2025				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus / Deficit		Tier 1	Tier 2	Tier 3
Monocacy ES	219	142	64.8%	+77	No UPP	162	179	192
John Poole MS	468	406	86.8%	+62	No UPP	188	213	232

Poolesville HS	1,508	1,373	91.0%	+135	No UPP	315	437	663
-------------------	-------	-------	-------	------	--------	-----	-----	-----

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (“UPP”) based on each school’s adequacy status and ceilings, as determined in the Annual School Test. Under the FY2022 Annual School Test, development projects approved within these school service areas are not automatically subject to Utilization Premium Payments as identified in Table 2.

Based on the school capacity analysis performed, using the FY2022 Annual School Test, this Application is not subject to a Utilization Premium Payment.

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

The Subject Property is subject to Chapter 22A of the County Code (“FCL”).

Natural Resource Inventory / Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”), Plan No. 420200580, for this Property was approved on October 29, 2019. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The NRI/FSD calls out the site to be a total of 12.45 acres of which 6.26 acres are existing forest contained in a single forest stand. The remainder of the Property, 6.19 acres, is in active agricultural production.

Preliminary / Final Forest Conservation Plan

The Applicant has submitted a Preliminary/Final Forest Conservation Plan with this Application. The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s *Environmental Guidelines*.

The Total Tract Area of the Subject Property is 12.45 acres located in the AR Zone. The Applicant is agriculturally exempting 5.42 acres which will remain in active commercial agricultural production and is dedicating 0.27 acres as right-of-way for West Hunter Road. The Applicant has submitted an Agricultural Declaration of Intent for the 5.42-acre portion of the Subject Property remaining in agricultural production as required under Section 22A.00.01.12 of the Forest Conservation Regulations. The deductions from the Total Tract Area of 12.45 acres result in a Net Tract Area of 6.76 acres. The AR Zone is assigned a Land Use Category of Agricultural Resource Area as defined in Section 22A-3 of the FCL and in the Land Use Table of the *Trees Technical Manual*, which generates an afforestation threshold of 20% and a conservation threshold of 50% of Net Tract Area.

The FFCP shows a total of 6.26 acres of forest on the Net Tract Area of the Subject Property. The FFCP is approved to remove 1.50 acres and retain 4.67 acres of forest. When the numbers of the Net Tract Area, land use category, total amount of existing forest, forest removed, and forest retained are entered into the Forest Conservation Worksheet it results in a total afforestation/reforestation requirement of 0.00 acres. All the retained forest will be protected by a Category I Conservation Easement.

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

The Administrative Subdivision Plan received a stormwater plan approval from the Montgomery County Department of Permitting Services, Water Resources Section on June 21, 2021. The Application will meet stormwater management using drywells and non-rooftop disconnect.

- 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.*

There are no other applicable provisions specific to the Property that are necessary for approval.

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 15 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


MCPB No. 21-116
Administrative Subdivision Plan No. 620210020
Wilson Delay Lot 1
Page 12

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 and Commissioners Cichy, Patterson, and Verma voting in favor of the motion at its regular meeting held on Thursday, October 28, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board